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FEDERAL DRUG LAW ENFORCEMENT COORDINATION

HEARING BEFORE THE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL HOUSE OF REPRESENTATIVES NINETY-SEVENTH CONGRESS SECOND SESSION

MARCH 23, 1982

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FEDERAL DRUG LAW ENFORCEMENT COORDINATION

TUESDAY, MARCH 23, 1982

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,
Washington, D.C.

The committee met, pursuant to notice, at 2:10 p.m., in room 2359, Rayburn House Office Building, Hon. Leo C. Zeferetti (chairman of the committee) presiding.

Present: Representatives Fortney H. Stark, James H. Scheuer, Daniel K. Akaka, Charles B. Rangel, Tom Railsback, Frank J. Guarini, Michael G. Oxley, Benjamin A. Gilman, and E. Clay Shaw.

Staff present: Patrick L. Carpentier, chief counsel; Brenda L. Yager, minority counsel; George R. Gilbert, associate counsel; Edward H. Jurith, staff counsel; Elliott A. Brown, minority professional staff member; James J. Heavey, press officer; Nona W. Co-field, executive assistant; Cathy M. Chase, staff assistant.

Mr. ZEFERETTI. The hearing of the Select Committee on Narcotics Abuse and Control will come to order.

Good afternoon, ladies and gentlemen.

Today, the Select Committee on Narcotics Abuse and Control continues its examination of the administration's efforts to develop a comprehensive, coordinated, long-term Federal drug strategy as required by law. Our inquiry this afternoon will focus on the administration's progress in formulating and implementing an integrated strategy for drug law enforcement.

Coordination of the many agencies with roles to play in drug law enforcement is crucial if we are ever to control the massive flow of narcotics and other dangerous drugs into our Nation and reduce the rampant crime and violence the drug trade spawns. Drug traffickers are sophisticated, highly organized, well equipped and well financed. The resources of our drug law enforcement agencies, on the other hand, are stretched to the limit, particularly in these times of tight Federal budgets. Accordingly, it is imperative that we use all of the resources we can muster, managed as effectively as possible, to mount a comprehensive attack on drug trafficking and drug-related crime.

In his speech on crime last September, President Reagan acknowledged that an effective attack on drug trafficking is one of the single most important steps that can lead to a significant reduction in crime. One of the major points in the administration's narcotics enforcement strategy was to be the creation by the President of a Cabinet-level task force on drug law enforcement to co-

ordinate efforts to stop the flow of drugs into the United States. This task force would be chaired by the Attorney General and include the Secretaries of Defense, State, Transportation, and Treasury. Since last fall, however, little has been heard about this body.

Within the past few months, the administration has announced a number of initiatives intended to beef up Federal drug law enforcement efforts and improve the coordination of drug investigations. Within the Justice Department, the Attorney General assigned jurisdiction to the Federal Bureau of Investigation to investigate Federal drug offenses concurrently with DEA and made the FBI Director responsible for general supervision of drug enforcement efforts. He also announced the creation of a high-level Justice Department committee to coordinate the drug law enforcement efforts of all agencies within the Department.

The President has also established a special task force on crime in southern Florida, headed by Vice President Bush, to coordinate Federal assistance to that area. As a major entry point for most of the illicit marihuana and cocaine smuggled into this country, south Florida has been particularly hard hit by the crime, violence, and money laundering associated with drug trafficking. Among the steps being taken, Federal resources in south Florida are being temporarily increased by the addition of 145 Customs investigators, 43 FBI agents, and 20 DEA agents, and additional military support for drug surveillance and interdiction efforts is being provided.

Our hearing today will explore the effectiveness of these recent initiatives and, more important, how they relate to the development of an integrated drug law enforcement strategy. While the Select Committee welcomes the administration's increased attention to the problems of drug law enforcement, these recent actions raise a number of serious concerns that need to be addressed.

Some of the issues we want to examine today are: Has the Task Force on Drug Law Enforcement announced by the President last September been established and if so, what are its specific duties and responsibilities?

What priorities has the administration established to improve the coordination and execution of drug law enforcement and international narcotics control efforts?

Has the DEA/FBI reorganization affected the integrity of the DEA as the Nation's lead drug enforcement agency?

What steps is Justice taking in concert with other Federal civilian law enforcement agencies and the Department of Defense to fully implement section 905 of Public Law 97-86 authorizing military cooperation on drug enforcement efforts?

What steps are being taken by the high-level Justice Department committee to coordinate the Department's resources against trafficking?

And, what steps have been taken to improve Federal cooperation with State and local drug enforcement agencies and, specifically, how have the law enforcement coordinating committees assisted this effort?

Underlying all of the above concerns is the issue of whether Federal drug law enforcement agencies have sufficient resources to carry out their missions effectively. Although administration officials have used strong language in outlining their commitment to

narcotics control, the administration had not made drug law enforcement a high budgetary priority.

Last September, the President proposed crippling cuts in the budgets of our law enforcement agencies. Although Congress restored most of these funds, the Coast Guard, which plays a vital role in drug interdiction, will require a large supplemental appropriation just to maintain its operational capabilities.

The President's proposed budget for fiscal year 1983 calls for substantial cuts in Customs resources which would result in the loss of 2,300 to 2,600 Customs personnel including 900 to 1,200 inspectors and nearly 100 patrol officers. Requests for other drug law enforcement agencies appear to be barely sufficient to maintain current operations.

In light of the above, the administration's recent initiatives to beef up law enforcement resources in south Florida, while much needed, may pose serious problems for other parts of the country. Covering one area by stripping resources from others is ultimately self-defeating, as drug traffickers will simply shift their operations to locations where the risks of detection are reduced. If we are to have any hope of significantly reducing the drug trade, our drug law enforcement agencies must be provided with the resources needed to maintain a balanced enforcement posture in all threatened areas.

To explore these issues, the committee invited Attorney General William French Smith to testify in his capacity as Chairman of the President's Cabinet-level Task Force on Drug Law Enforcement. The Attorney General has designated Associate Attorney General Rudolph Giuliani to appear on his behalf. We welcome Mr. Giuliani, who has been most cooperative with our committee in the past, and look forward to his remarks on this important subject of narcotics enforcement coordination.

Before hearing from Mr. Giuliani, I invite my colleagues on the committee, to make opening statements.

Mr. RANGEL. I would just like to add my thanks to Mr. Giuliani for his cooperation and indicate that I think the chairman of this committee has been very patient in trying to get some type of response from the administration. Those of us that come from districts that are hit very hard by drug trafficking can find very small comfort in the first lady visiting drug rehab centers, especially when we have budget proposals before us that will determine what resources Government spending may make available to those people who are involved in law enforcement.

So I am very anxious to hear what progress has been made, Mr. Giuliani, since the Administration has taken office, since I am hoping that a lot of it just missed the press, and perhaps this committee is not aware of it.

Thank you, Mr. Chairman.

Mr. ZEFERETTI. Thank you. Mr. Akaka?

Mr. AKAKA. Thank you very much, Mr. Chairman.

Mr. Giuliani, it is good to have you here, and I too want to express my gratitude for your being here. I am here to hear what you have to report on what the administration has done in this area. Thank you, Mr. Chairman.

Mr. ZEFERETTI. Mr. Scheuer?

Mr. SCHEUER. Thank you, Mr. Chairman.

Mr. Giuliani, we are all very eager to hear what you have to say. It seems that those of us who have been involved in the Select Committee on Narcotics for a long time that we have heard it all before, each year the level of rhetoric and concern goes up. Each year we say that problem is worse than it has ever been before. So you will have to forgive us if you hear us say that it is worse now than it has ever been before. It used to be that the problem of drugs was only a center city problem. It used to be that it was mostly in the Northeast and the Midwest corridor that it was a problem. It wasn't a problem for most of America. Now we see the most devastating effect of drugs taking place in south Florida, in the Miami metropolitan area, where it is literally tearing that society apart at the seams, affecting the sociology, affecting the criminal justice system, affecting the very economic base of that society because of the ravages that the proliferating reports of violent crime have had on its tourism, reaching all the way to England.

When I go to England on a congressional committee trip, most everywhere they ask, "Are conditions in Florida as bad as they say?" Vast tour groups on the continent have turned off their tourists from Europe to Florida because of their concern about drugs and drug-related crime.

So this is now a problem that affects all of America. It is corrupting our society. It is corrupting our criminal justice system. It is corrupting the integrity of the borders such as the value of illegal traffic.

So the problem has gotten worse progressively in the many, many years that most of us have been functioning. It is at its all-time worst now. We are urgently concerned that the Federal Government provide leadership. This problem is so far beyond the competence of cities and States to cope with that it is utterly bizarre. And any talk of a new Federalism here, of turning back responsibilities for coping with the drug traffic—it is not only interstate and interregional but international in its basic organizing concept—would be laughable. You would get laughed out of this room. I don't suggest this is what you are going to say, but there is such a clear, extraordinarily urgently needed Federal presence here that we are really sitting with baited breath hoping to hear some words of leadership from the Federal Government. We have not received either the words of leadership or the kind of action that would mean business to us, that would indicate the Federal Government is putting its powers and its moneys where its mouth ought to be.

So without taking a helluva lot of anybody's time, we are urgently waiting to hear some signals from you that we haven't heard up to this point in time.

Mr. ZEFERETTI. Mr. Stark?

Mr. STARK. Thank you, Mr. Chairman.

I am hoping that we will hear about those areas that are particularly of interest to those of us who have jurisdiction over the Customs agents because of the increased duties they have been given and the reduction of funds. It is always interesting to me how we can make law enforcement a prime issue of the administration and then cut back the very funds that are needed to put cops on the

street, so to speak. I will hear some of that in the testimony as it unfolds.

Mr. ZEFERETTI. Thank you.

**STATEMENT OF RUDOLPH GIULIANI, ASSOCIATE ATTORNEY
GENERAL, U.S. DEPARTMENT OF JUSTICE**

Mr. ZEFERETTI. Mr. Giuliani, we have your complete statement and it will be made part of the record. You may proceed in any way you feel comfortable.

Mr. GIULIANI. Mr. Chairman, it is a privilege to be here before this Committee. I would like to just briefly summarize my statement and possibly some other points and then answer any questions that you have.

[Prepared statement of Rudolph Giuliani appears on p. 28.]

Mr. GIULIANI. Since its establishment, the House Select Committee on Narcotics Abuse and Control has taken an active role in focusing congressional, executive branch, and international attention on the many complex issues associated with drug control strategies. Although for some time there has been a general consensus as to the primary goals and objectives of the drug control program, the strategies to implement the Federal drug program have not been carried out in a comprehensive fashion.

This administration has made clear its commitment, on a number of occasions, to drug abuse control and minimizing the crime associated with drug trafficking, and has stressed the need for a fully coordinated approach.

I appreciate this opportunity to discuss the role of the Department of Justice in this important effort.

Drug enforcement is one of the five major priorities of the Department of Justice for the Federal effort against crime. The others are organized crime, violent crime, white collar crime, and public corruption.

Indeed, as you can see, just in mentioning those categories, there is a substantial overlap, particularly as between narcotics enforcement, organized crime, and violent crime.

Because there are in fact competing demands on the resources of the Department of Justice, Department of Justice personnel as well as the other Federal law enforcement personnel, rather than coming up with a preordained policy in Washington and dictating that policy to all the Federal agencies, and as it follows along State and local law enforcement agencies, based on the recommendations of the Attorney General's Task Force on Violent Crime—chaired by former Attorney General Griffin Bell and the Governor of Illinois, Jim Thompson—the Attorney General established in all districts in this country, all 94 districts throughout this country, what are known as law enforcement coordinating committees.

Without going into great detail, the purpose of the law enforcement coordinating committees was to bring together the leaders of Federal, State, and local law enforcement in a particular area to span the entire country, to have them tell us how we should be using the resources we have in that community. The Federal jurisdiction that we have can have an effect on reducing crime, how we can be using those resources in that community most effectively, to

have local officers, local prosecutors, have an input and a substantial input in how we exercise the concurrent jurisdiction that the Federal Government has largely in the drug area or completely in the drug area and often in some other areas.

So that rather than dreaming up strategies in Washington that might have an application to Chicago but not to Los Angeles, or it might have an application in Florida but not to Mississippi, we can get input the other way so that they can tell us how our resources can be used, how the jurisdiction should be exercised, and how this delicate balance can be worked out most effectively.

Frankly, as one who has been a Federal prosecutor and has been involved in the Justice Department for 10 years, and of 15 years of being a lawyer, when I was doing that kind of work it seemed to me that one of the things we were missing with all of the talk about new programs, and there were a lot of fancy programs, was to deal with the drug problem as well as the other crime problems. There were always programs, particularly people running for office talking about 1,000 more policemen, \$15 million more, none of those things have done very much to reduce the problem of crime in this country.

It seemed to me as a narcotics prosecutor, if we could at some point get ourselves as organized and as coordinated as the people we were investigating we could have an untold improved effect on what we were doing. There are now more than 50 law enforcement coordinating committees, as established by the Attorney General, that have had their first or second meetings and that are beginning to submit to us what are called plans for the use of Federal jurisdiction and Federal resources.

I believe it is the single most important thing that the Justice Department can do, to change the way in which Federal law enforcement operates so that it operates on real problems, not some bureaucrat's determination of what a problem should be. And we take advantage of the resources we do have and give them maximum effect. And at that point we can have a much better appraisal of what additional resources we need and where they can be put.

Along with that very substantial change, the Attorney General announced approximately 2 months ago another step, what I believe is an historic step, in narcotics enforcement. He announced that the Federal Bureau of Investigation will handle narcotics investigations and he gave the FBI jurisdiction to do so. He turned over to the Director of the FBI overall supervision of the Federal narcotics effort so that that effort will be institutionalized in a law enforcement organization that has, indeed, other responsibilities, but also vast resources and a vast geographic reach. That didn't exist before.

Most importantly, he did that without in any way affecting the integrity of the Drug Enforcement Administration's lead agency role in drug enforcement because that agency will continue to exist, and its resources and its jurisdiction will be supplemented by the FBI. The FBI will be expected to take on, at the request of the Administrator of the Drug Enforcement Administration, the kind of drug investigations in which the FBI already has a proven expertise.

Financial investigations, which are so important to stemming the flow of drugs into this country, organized crime investigations, where there already is an overlap as well as the use of electronic surveillance techniques, which the FBI has developed and used with great expertise in other areas, and frankly are not being used as effectively and have not been used in the past as effectively, as creatively as they could be used in the narcotics area. In those three areas the FBI can add substantial resources and make a real impact in the drug area without in any way affecting the already ongoing superb efforts of the Drug Enforcement Administration, and they can add to that effort rather than in any way diminishing it.

I chaired the committee appointed by the Attorney General to look at the question of whether there should be a merger between the FBI and the Drug Enforcement Administration and a number of other proposals that were recommended, discussed, and looked at, and we came to this conclusion because we thought it maximized the strength of both organizations and brought into drug enforcement something that was lacking.

If it were done another way, for example, if you said, well, the Drug Enforcement Administration should go out and hire 50 additional agents to do financial investigations, it would take 3, 4, 5, years before you would have people that were trained to do those investigations, and there would have been practically no way to give the Drug Enforcement Administration the geographic reach that the FBI presently has.

In a drug investigation, you never know where you are going to be taken. It is one thing to say most of the drugs come in from Florida. Many of them are used there and there is a market for them in New York, Chicago, and elsewhere. But on an international and national drug investigation, you may very well have to put a wiretap to get the critical information you need in Iowa, or Idaho, or even in a place like Cincinnati where there are four drug agents and 58 FBI agents. Under the past scheme that existed, it became very difficult to carry out those investigations. Under the present scheme, they can be easily facilitated.

The FBI's commitment to this effort, I can only tell you now, basically anecdotes and things I have followed up on in my trips around the country. It is a substantial commitment. The number of joint FBI and DEA investigations is now in excess, I believe, of 200. It started at 10. The number of FBI wiretaps, although I would rather not reveal that, has drastically increased in support of drug investigations. And the number of joint organized crime investigations has increased.

The commitment of the Director of the FBI is a very real one and I think only time will tell as to exactly how large a commitment of resources it will be. We would rather have it done that way than have some kind of preordained determination that it must be x percentage of the FBI resources. Let's have the problem determine for us how great that investment of resources should be.

There are other things that the Department has done over the last year to change and to try to professionalize and institutionalize the Federal response against drugs, including a legislative program

in areas that can be of substantial help in dealing with the drug problem.

The amendment to the Posse Comitatus Act that was passed by the Congress and signed by the President in December 1981 clears up a whole area of confusion that was depriving law enforcement of significant information on drug traffic and patterns that we have never had before.

We are now able to get that information and it is having a material effect on the quality of investigations that the Drug Enforcement Administration has conducted and the Customs Service has conducted. And I think it is a very hopeful sign for assisting us and making use of what we have in a better way.

Other methods that are before the Congress that this Department has supported are the proposed amendments of the criminal forfeiture laws so that they can be used in all narcotics cases.

The Drug Enforcement Administration last year seized more assets—I am not talking about drugs, I am talking about additional assets, dollars, property—than ever before in its history.

This year things are moving along and it appears it will seize more in assets than its entire budget. It will exceed its budget in seized assets with this change in the law. A great deal more can be done than has been done in the past. A great deal has been done in the past and we will, No. 1, have the satisfaction of knowing that our drug enforcement efforts are funded from the resources of those who would try to profit from this terrible problem and, No. 2, there is no better way to deal with the drug problem than to take their money away from them.

Bail reform is another area where we would urge on the Congress dealing with the problem of drug fugitives. It becomes debilitating to have a drug enforcement agent spend an enormous amount of time, put his life at risk, arrest someone, and then find that person out on \$1 million bond, and flee the country. It is not an incidental problem. There are over 3,000, I believe, drug fugitives. There are less than 2,000 drug agents. Even with the Marshals Service and the FBI assisting in locating those fugitives, it becomes a very, very difficult problem. and in a way a waste of resources.

The U.S. Marshals Service established a special operation. For example, in Florida, some months ago, they sent down a team of people who focused on arresting the worst fugitives, many of whom were drug fugitives. I believe we arrested 73 or 76 in a short period of time; 15 or 16 of those were let out on bond again and we are looking for them again, because many judges do not believe that they have the power to hold someone based on a finding that money will not be an adequate assurance of a person's return.

We think the law presently provides that. Some judges agree with that, some judges don't. A bill passed by this Congress making that clear would be of great assistance to drug enforcement, as would the measures that have been recommended and are supported by many to improve the habeas corpus procedure so that there would be some finality on the sentences that are imposed on drug dealers.

Amendments to the so-called Tax Reform Act of 1976 make it very, very difficult to commence financial investigations. Financial

investigations were, from my own personal experience when I was a prosecutor, very, very valuable in isolating those who are really the major financiers of drugs.

And finally, comprehensive reform of the Criminal Code, which would provide many things, the most important of which is determinate sentencing so that, as many call it, there would be a truth in sentencing, so that when a judge gave 9 years it meant 9 years, and not 3 to 6, which is what it means now. Many people are fooled and the judge looks like it is a really serious sentence when in fact he is giving a relatively minor sentence.

These are all measures that are before the Congress. There are more, but these are probably the principal ones, either proposed or supported vigorously by this administration. The Attorney General has testified on this subject; I have; and others in the administration have; and these are things that would be of material benefit to law enforcement in general, and in particular to drug law enforcement.

The last year has also—and I will highlight just two or three of the major ones—has also brought a great many successes in the law enforcement effort, not nearly as many as any of us would like. I don't know that you would ever achieve what you would like to achieve in this area. It is a very nagging, frustrating, horrible problem to deal with, but Operation Tiburon, that just concluded, which involved the seizure of a massive amount of drugs, not only by DEA and the Coast Guard and the Customs, but also by the Colombian Government, and their assistance in this was a major help in stemming some of the flow of drugs into the United States.

The BancoShares investigation that took 2½ years, was conducted by the FBI mainly, and then concluded by the joint investigation of the FBI and the DEA. It involved the Bureau in what really was a sting operation to locate, identify, arrest, and then prosecute the major financiers of drugs in Florida and the Southeastern area of the United States.

Bureau agents went undercover, posed as financiers of drugs themselves, taperecorded, videotaped meetings and conversations and were able to seize millions and millions of dollars as a result of this investigation, in assets, bring many, many indictments, and most importantly for long-term use, to gather a base of very, very important intelligence for making the same kinds of decisions and determinations about how to deal with the drug networks as the Bureau is now able to do after many years of this kind of work, with organized crime.

I think these things are all hopeful signs, not nearly enough. There is a commitment to involving fully the resources of the Department of Justice, the Marshals Service, and others in dealing with this problem.

There were, as I mentioned before, more assets seized over the last year than ever before in the history of drug enforcement. And this year there is no doubt that that will be exceeded and I believe, as I said, the budget of DEA will be exceeded.

You asked about the recently established Cabinet council on legal policy. The purpose of that Cabinet council will be to assist in bringing into drug enforcement all those agencies of Government, departments and agencies of Government, in addition to the De-

partment of Justice, that have jurisdiction, resources, and expertise that can help reduce this problem.

The Attorney General is the chairman of the Cabinet-level task force and as you mentioned the Secretaries of State, Treasury, Defense, and Transportation, Health and Human Services, Agriculture, Interior, and Commerce, and the Directors of the Office of Management and Budget, Central Intelligence Agency, and the Environmental Protection Agency will all participate in a subcouncil, in subcouncils on drug policy, and supply reduction.

The Attorney General's responsibility as the chief law enforcement officer of the United States is to assure that each of the subcouncil members is aware of the extent of the drug problem and how the commitment in resources of his department or agency can best be utilized to focus on specific tasks to advance the national and international drug control effort.

Over a dozen such critical issues have been developed for presentation to the Cabinet council. Each will have several specific action items that require interagency coordination and action. I will be pleased to report back to the committee on the status of this program. The Department of Justice has done and will continue to do everything it can to make drug enforcement a major priority, as the law enforcement coordinating committees give us information, particularly in those areas in which drug enforcement is a major issue.

The Cabinet Council on Legal Policy chaired by the Attorney General gives the Attorney General the opportunity to reach beyond the Department of Justice, under the leadership, obviously, of the President, to draw in other resources that can also be of help. Sometimes even more help, an important component of the drug supply reduction strategy, as you all know, is the production of drugs at the source.

The State Department, under the able leadership of the Assistant Secretary, Mr. DiCarlo, has been working diligently toward this end. I am sure that you will be encouraged to learn that our ambassadors in several foreign countries have reported that enforcement action being carried out in the United States is stimulating those nations to make similar efforts. Further diplomatic dialog regarding source country drug control efforts is ongoing.

The Department of Justice is also working closely with the State Department on another aspect of international drug enforcement, the establishment of bilateral agreements with key countries for mutual legal assistance. In December, the Senate ratified treaties with Colombia and the Netherlands in connection with drug assistance. The Departments of Justice and State are also negotiating similar treaties with Germany, France, and Italy, and we have also been successful in reaching agreements with other nations to permit vessels registered under their flags to be boarded and searched where the vessel is suspected of transporting drugs to the United States.

Since the enactment of the Posse Comitatus law, which I mentioned before, we have been aggressively working with the Defense Department on the implementation of this new authority.

The Drug Enforcement Administration, the Coast Guard, and the Navy have already reached accord on how the Navy can best sup-

port law enforcement without interfering with the Navy's principal mission and at no direct cost to the other agencies. As a result, Navy units will be alerted to track vessels in the Caribbean and off the Atlantic coast which meet drug smuggling profiles. This information will then be transmitted to the Coast Guard.

In addition, the Air Force has agreed to provide their air surveillance capability without cost to other agencies, and insofar as assistance does not detract from its principal mission.

In conclusion, each of these initiatives addresses a different aspect of the overall drug control strategy. Our efforts to better control the Government's resources will result in a more focused and effective attack on the menace of drug traffic. No crime problem is more pressing than drug trafficking and abuse. No problem is more challenging. I am confident that we are up to the task at hand and would like to thank all of the members of the committee for listening to me. I am certainly pleased to answer any questions that you have.

Mr. ZEFERETTI. Thank you, Mr. Giuliani.

Before I yield to my colleagues, there are a couple of areas that I would like to touch on. One is the merger between DEA and the FBI and their operations right now. We will leave that to another time because that could take up a hearing all by itself, to get all of the information that is required.

I might add that some of our early comments, from some of the agents that are out on the street, have been that passing information between the agencies has been a very, very cumbersome problem for them at this particular juncture.

But again, as I said, I will wait for another time to go into that.

One of the things you did mention in your opening remarks was the initial Attorney General's Task Force on Crime, with the former Attorney General Bell and Governor Thompson. One of the most interesting parts of their recommendations was that the various agencies within the criminal justice system be funded in such a way that priority would be given to each and every one of the components of the criminal justice system. One of the primary concerns that they had was correctional institutions and the courts, and they recommended legislative initiatives that would give us the ability to work out a formula that would have Government and localities working together to increase the capabilities to incarcerate people.

I might say, that has not been followed through. That was only one aspect of their recommendations.

Mr. GIULIANI. I don't believe that is correct. I believe it has been followed through in a very, very substantial way.

Mr. ZEFERETTI. We have had three pieces of legislation introduced in the House of Representatives in the last year that would lend themselves to creating a program between Government and States for the building of institutions in our areas that need that kind of capability. What we have seen is the ability to get some Federal surplus property opened up for the capability of having jail space. I am talking about a formal program to put that kind of operation into effect.

Mr. GIULIANI. If I may, what you have not seen is a Federal give-away program, involving billions of dollars. Instead what you have

seen is a very, very professional and a very sensible program directed by the Federal Bureau of Prisons, people who know this business, to locate all over the country surplus property and to turn that property over to the States. The benefits of that are that the States that have an overcrowding problem now get a prison, prison space, bed space, today, tomorrow or within the next 2 or 3 months, and if we were to have engaged in a \$2 billion giveaway program those prisons wouldn't be up for 4, 5, or 6 years. Maybe they would be necessary for 5 or 6 years from now, maybe they won't be. You can get a good debate on that from a lot of people. But we have now turned over six pieces of property that can be readily, and have been converted into prison facilities in various places throughout the country.

We have located 16 others and are in the process of negotiating for the turnover of that property. There is legislation before the Congress—

Mr. ZEFERETTI. May I interrupt you? It is my legislation. What we have been able to do so far has been done on an ad hoc basis without the kind of formal program for which legislation is needed. We are identifying surplus areas that can be used, with permission, at this particular time. We will not have a formal program until the legislation is passed, and that is the only inference I was making. If we are talking about doing something for an archaic system, beyond the current stopgap measures, we are talking about a long-range program that is going to involve Federal and State cooperation to build something that is 3, 4, and 5 years down the road that is going to meet the needs those localities are going to have. Because as long as we have Federal, judicially imposed requirements on the States, as long as we have those kinds of conflicts based on civil rights laws that mandate certain behavior by localities, then we must give them the opportunity to at least create a viable system.

But that's a whole other issue that we can get into. What I am mainly concerned with, though, again, is the question of resources and whether those agencies that have responsibility and jurisdiction are getting the appropriate direction and priority. That to me is the most important part of what I am doing here today because, while you have a law enforcement council, while you have a Presidential task force and council, I don't see any recommendations coming forward at this particular time. If they have been, I want to see them. I really do, because I want to cooperate. Most of us sitting up here are people that have been involved in this before, for a long period of time, and are looking, not to be adversaries, but are looking to work toward formulating a program or strategy that would have an impact.

What we are saying to you, and what we are saying to everybody in the administration, and especially to the Attorney General who has law enforcement jurisdiction, we are saying, "You must look at those agencies and if they are deficient, perhaps because available resources are going to supply only one section of our country with some enforcement capability, you have to step forward and say within your law enforcement council, if you want to use that as a nucleus for such communication, or somewhere say, 'Hey, that agency cannot be shortchanged. If we have to transfer 200 men to

the southern part of Florida to have an impact on that problem, then we have to do something to make sure that other areas of the country are not going to be shortchanged. And if we are going to be involved in posse comitatus, we have to be sure that the intelligence and communication and equipment being used is the most effective and the best that the local law enforcement agency can use'."

So I am looking for that kind of an answer to our problem, because we have not had that kind of priority, and I think somewhere down the road, whether it is the 1983-84 budget or somewhere else, that kind of an impact has to be made. It can only be made with the recommendations of your office because I think you are the central law enforcement figure in our Nation, and without you standing up and saying, "These agencies that have the responsibility need their tools," we are never going to get that kind of priority.

I know Mr. Rangel has to catch a plane, so with your permission?

Mr. RAILSBACK. Certainly.

Mr. RANGEL. Thank you, Mr. Chairman.

Mr. Giuliani, I assume that you know that there appears to be, with local law enforcement, a feeling that there is lack of national support for their effort, and I can understand it, because at recent hearings that we had, they left the clear impression that this administration felt that more had to be done by volunteers on the local level, and even though there were limited resources, that you intended to do more with them.

We will be having hearings. You will be hearing from the police chiefs and the attorneys general throughout the country. But there is one thing that amazes this Member of Congress and that is, under what authority did the Justice Department move to create this relationship between the FBI and the DEA?

Mr. GIULIANI. The question of jurisdiction for narcotics enforcement is something that the Attorney General has the power to determine under Reorganization Plan No. 2. The Attorney General gave at one point sole jurisdiction for narcotics enforcement, interior narcotics enforcement to DEA, by an Executive order.

Mr. RANGEL. What's the Congress got to do with it. We had prolonged and extended debates on that reorganization plan under Nixon and we thought, some of us did, that Congress had something to say about the mission of these agencies, whether it was the Federal Bureau of Investigation or the Drug Enforcement Administration. To hear you testify as to the degree of cooperation you are enjoying now, some of us thought that type of cooperation should have been expected under separate agencies.

Mr. GIULIANI. That kind of cooperation was not occurring. I can tell you that I conducted a study of the relationship between DEA and FBI going back over that last—

Mr. RANGEL. I don't know the relationship you have now. You will have to come to Congress if you decide—your task force decides—to merge; you have to come to Congress, don't you?

Mr. GIULIANI. The decision the task force made was to recommend no merger of the two agencies, that a merger—

Mr. RANGEL. But you took the FBI officer and put him in charge of it—

Mr. GIULIANI. If I could explain, the decision was that it would not be helpful to merge the two agencies. If we had made that decision, it would have required legislation. It was the view of all of the members of the committee, including the Director of the FBI, that that would be a mistake. The only thing we did was change the reporting relationship of the Drug Enforcement Administration to the Department of Justice.

The Administrator of DEA reports to the Department of Justice through the Director of the FBI.

Mr. RANGEL. Who is the Administrator of the DEA?

Mr. GIULIANI. The person nominated by the President is Francis Mullen.

Mr. RANGEL. Who is an FBI agent.

Mr. GIULIANI. That's right.

Mr. RANGEL. All you did was you got rid of the DEA Administrator and put in an FBI Administrator and he reports to the agency that he has reported to all of his career.

Mr. GIULIANI. The purpose of that was in order to bring the FBI in in a very, very substantial way into narcotics enforcement, which they were not before. The net effect of this will be that a substantial amount of the resources of the FBI will be devoted to drug cases. It started with 10 joint investigations. There are now over 200. The FBI expects that they will be taking on a large number of drug investigations in the area of their expertise—financial investigations, wiretaps, the kind of thing that the FBI can do.

Mr. RANGEL. All right. There are many of us that have supported the Drug Enforcement Administration, that have supported the Federal Bureau of Narcotics, and we knew clearly what their missions were. We did have some reservations about what the FBI was not doing and some of us didn't believe that, with a history of not being involved in dirty hands type crimes, that they should then be recognized to take over the entire Drug Enforcement Administration, which you have done some kind of way. It kind of runs around the Congress because you have taken an FBI agent, you have put him in charge of the DEA, and he reports to the FBI.

In any event, if resources are going to be made available, no one is going to have any argument with the method in which you have done it, except some of us have not seen a request for increase in resources. We understand that the DEA agents will now have to be trained to appreciate the regulations and how the FBI operates. And then we hear that the Federal Bureau of Investigation will be trained how to operate as drug enforcement agents. And some of us thought it would be a better idea just to strengthen the DEA, to make certain all other Federal agencies would share in investigations that were against the national trafficking in drugs.

Members have different questions. I don't know how you responded to those questions that the chairman had listed. I don't have any meetings—you haven't met yet, the Cabinet Secretaries?

Mr. GIULIANI. The first meeting will be tomorrow.

Mr. RANGEL. I am not even going to ask you if you have decided that would be a good idea, to testify, when you decided.

Mr. GIULIANI. It was established a month and a half ago. There have been a number of organizational meetings obviously. The first meeting will be tomorrow.

Mr. RANGEL. We hope you will feel free to share with us, without having a hearing, what you people intend to do, because for those that are struggling in the street, the local prosecutors, the local police people, there has been such a lack of respect for the law because of a lack of resources available to enforce it that it is frightening, far beyond the impact of drug addiction and drug trafficking.

You know this committee has historically been supportive. We do hope that there will be something that you can add to your testimony when your group meets.

Thank you, Mr. Chairman.

Mr. ZEFERETTI. Thank you. Mr. Railsback?

Mr. RAILSBACK. Thank you, Mr. Chairman.

I want to, simply congratulate you Mr. Giuliani. It sounds to me as if you are taking some initiatives that could bear fruit. However, I do not believe we understand exactly the structure of your sublevel task forces. What I would really like to know is, exactly how is the sublevel task forces tiered? I understand there is a health task force, there's a Cabinet-level task force, or rather a Cabinet council on legal policy. How do all these groups fit in structurally?

Mr. GIULIANI. The Cabinet council on legal policy is intended as a mechanism to bring for decision to the President those issues that involve the Justice Department—drug enforcement, the drug issue—is just one of them, the first issue that the Cabinet council will take up is the drug enforcement, and in fact the whole genesis for establishing the Cabinet council was drug enforcement, although now it will go beyond it and include several other areas.

The particular subgroup will be established on an ongoing regular basis and will consider all of the questions that involve, for example, the Coast Guard. Do they need more resources? Where will those resources be placed? How does that work with what DEA is learning and what Customs is learning? How can we better put those efforts together?

If those issues can't be resolved, let's say, in the subcouncil or working group level, then those issues can be raised to the Secretary level so that the Attorney General and the Secretary of Transportation can sit down with the rest of the Cabinet council and try to work out the dispute or the problem.

And finally, if we are dealing with a major enough problem, the President can be brought into it and involved in making the decision as to how much should the military be involved, should they be paid for it, how much should they be paid, questions that keep coming up in all of these coordinated efforts.

You solve them on an ad hoc basis sometimes, sometimes you don't. Since the President's decisionmaking process is very much geared to the Cabinet council concept of having Cabinet councils raise questions and then he resolves them, in that context, I think this would be very, very helpful to narcotics enforcement.

Mr. RAILSBACK. I am not certain I completely understand the organization. I understand that the Cabinet council on legal policy, could have immigration concerns, and could have narcotic con-

cerns. As you have stated, narcotics is the first concern. Is there any sub-Cabinet council that will deal specifically with the narcotics problem, or rather, will there be subgroups all dealing with related issues such as Coast Guard capability?

Mr. GIULIANI. There will be a regular subcouncil that meets and discusses on an ongoing basis all of the problems that involve narcotics enforcement, separate and distinct.

Mr. RAILSBACK. Just on narcotics enforcement, or will it also involve other issues, as immigration?

Mr. GIULIANI. No; just devoted to that issue, and then the Cabinet council might very well have other subgroups to deal with immigration, civil rights, and they will be established on a regular basis.

Mr. RAILSBACK. Will there be a subgroup on narcotics?

Mr. GIULIANI. That's right. The Attorney General will designate a member or members. The Secretary of Treasury will. The Secretary of Transportation will. And those people will meet on a regular basis to discuss just narcotics.

Mr. ZEFERETTI. Will you yield?

Mr. RAILSBACK. Yes.

Mr. ZEFERETTI. Just to clear up something. For arguments sake, if the Vice President's task force in southern Florida decides to put into operation a surveillance program run by Navy and Treasury and local law enforcement, it is done like that—it is done in a matter of days. It is done without the council's ability to sit down, without your office's ability to determine how that operation fits into an overall strategy for narcotics law enforcement. How is that done? How is that worked out?

Mr. GIULIANI. The Vice President's task force on Florida is functioning in just that one geographic area, based really on a model of what had been done in Atlanta that had been successful in Atlanta during the time of those terrible murders. The Attorney General was a member of that task force. I participated in many of the discussions and I think, for example, they put together a task force of DEA and Customs agents to take up a lot of these cases and a lot of these investigations that had gone without sufficient investigation.

We were able to put that together with Customs and with the Treasury Department at a working group level and come up with agreements. For example, that the Drug Enforcement Administration would be in charge of the task force and supervise it since they have the lead responsibility for it, so that that was planned. It wasn't something that was just dreamed up.

Mr. ZEFERETTI. I didn't mean it that way but from the time of its inception to the time it was put into operation it was a very, very short period of time. The Navy had to supply a certain amount of equipment, Treasury had to supply a certain amount of personnel, we had to have backup for it, we had to have a communication network put together, it was a lot of things that had to go into operation. I am saying, the coordinated effort, from your vantage point, you should be right on top of that because you can at that point make the determination on whether you are doing something that really is a deterrent that could work effectively or that could be so cumbersome that it can't even get off the ground. We could be

spending money fruitlessly, or we could—just be by virtue of some of the things that were said that the press picked up, we saw it sort of blew some of the operation out of the water.

What I am saying to you is that before any of that gets started your agency has to be the lead agency, and whoever makes up this council, whether from the administration or from a local law enforcement level, you still have to be the central figure in it and see if it works, I would think. Are you?

Mr. GIULIANI. The Justice Department will chair the Cabinet council.

Mr. ZEFERETTI. But you are not taking the lead?

Mr. GIULIANI. Yes; and it will also chair the narcotics subcouncil and be in charge of it.

Mr. RAILSBACK. What will the role of Dr. Carlton Turner be in this council?

Mr. GIULIANI. Participate in the enforcement side of it as well as have the lead responsibility for the prevention and treatment group that will continue to exist.

Mr. RAILSBACK. Would he have a role and be involved in the meetings of the sublevel groups, especially the sublevel group relating to narcotics?

Mr. GIULIANI. He would be a participant and have the lead responsibility for those areas that deal with prevention and treatment issues.

Mr. RAILSBACK. So what you are saying is, the purpose of this group is really as the focal point for coordination between all of the various departments, bringing them together for periodic meetings. These periodic meetings would be regularly scheduled?

Mr. GIULIANI. That is correct.

Mr. RAILSBACK. This particular council would play a very important role. The question is whether Carlton Turner is going to play a very important role with this group?

Mr. GIULIANI. Yes; he will play a very significant role.

Mr. RAILSBACK. How did ACTION get involved in the drug fight? Is ACTION going to replace some of the educational efforts that heretofore have been carried out by NIDA?

Mr. GIULIANI. I don't really know the answer to that.

Mr. RAILSBACK. Do you know how ACTION got involved?

Mr. GIULIANI. No.

Mr. RAILSBACK. I see that ACTION is having a White House conference on March 22, and to which none of us were invited.

I have exhausted my time. But, I did want to say I think that it is very important for everyone to be aware that we do want to be cooperative with the administration. We do want to be helpful. I think it is very important that we continue to communicate. Thank you, Mr. Chairman.

Mr. ZEFERETTI. Thank you, Mr. Railsback.

If I could just have one other question, why the outside coordination? Why not somebody from within the administration on the task force?

Mr. GIULIANI. You mean the Florida task force? The coordinator of it is an official of the Justice Department.

Mr. ZEFERETTI. Your agency?

Mr. GIULIANI. Yes.

Mr. CARPENTIER. Was he not drawn from the outside specifically for that assignment?

Mr. GIULIANI. No; he is an employee of the Justice Department.

Mr. ZEFERETTI. What's his name?

Mr. GIULIANI. Mr. Rinkevitch, who had also been the coordinator of a similar effort in Atlanta, and the reason he was chosen was that it worked so well, and also that it was coordinated very well, with the FBI, the State and local law enforcement. He is a person who has a very substantial background in law enforcement matters and does, I believe, a really superb job of involving all of the agencies. He comes from the Justice Department. He is assigned to the Vice President for this task.

Mr. ZEFERETTI. Thank you. If you gentlemen will allow, I am going to skip over to Mr. Stark because he has a question and has to leave.

Mr. STARK. I appreciate that and I beg the indulgence of my colleagues to ask, if I recall, in your testimony, Mr. Giuliani, you felt that just adding officers or spending another \$50 million won't help much in the overall problem. Is that in effect what you said?

Mr. GIULIANI. I think that too often, and this is my own personal view, in the way politically we deal with the problem of crime, we talk about more police, more dollars, and we don't even know how we can use it. It just answers the problem very quickly and instead a lot more can be accomplished for the public by structurally looking at these agencies.

Mr. STARK. To be more sophisticated?

Mr. GIULIANI. That's a very general answer. There are also situations where you would want many resources.

Mr. STARK. What occurred to me is this, it's not—maybe it is under your direction.

I have indicated—in just my opening statement, someone moves agents from California to Florida, we know there has been an increase of traffic in California. That wasn't a big secret. I presume the drug dealers knew it as well as everybody else. And we have added, we being the Government as a whole, about three or four functions in the last 2 or 3 years to the Coast Guard—Law of the Sea enforcement, also fishing enforcement, narcotics interdiction offshore, cutting their budget at the same time.

We are eliminating 2,300 to 2,600 Customs agents while adding to their duties narcotics enforcement. We have received word from the GAO that the cost of additional Customs agents is returned by 3 or 4 to 1 in terms of the increased duties that they collect, at the same time they can be looking for narcotics, so that I have tried to make a case in our committee with the Secretary of the Treasury that we are cutting off our nose to spite our face. This is not all under your jurisdiction, nor is it just under this committee's purview, but I am wondering if you could just tell me, what I am really seeing, the Coast Guard duties are going up dramatically, just in drug enforcement. They tell us that they are \$50 million short. Let's say they are like every other bureaucracy, they need more money, so let's just take \$25 million there. The Customs people tell me that they are going to lose 2,000 agents and they moved 100 and some out of California over to Florida. At some point, if we could close, say, a Customs office—I would probably be

shot in my State, the last one to be closed should be San Francisco—but if we could close the Customs office with a few GS-19's or GS-15's and put a few more guys out checking the airports, wouldn't we be better off if we could collect enough to pay for the additional agents. Wouldn't it be worth at least an experiment, to see if we could put a few more people out, or am I just missing something here?

It is leaving something to chance. I can't ever seem to get a handle on which agency has to do it. Am I just misled or would there be some problem to add people to do your job?

Mr. GIULIANI. I don't know the answer to your question, Mr. Stark. I don't know the resource problems of Customs or the Coast Guard. I know particularly with regard to the Coast Guard that they have performed some very, very important missions for us, both in the immigration area and in the drug area and they are a very valuable resource, in both those areas, but it would be unfair for me to speculate one way or the other. I don't know whether they are in a situation, they have resources that aren't being used for priority things and they can be moved around or they are in a situation where they are being hurt.

I know the Attorney General, during the 1983 budget process, analyzed it very carefully, as he said he would in testimony before the Congress back in September, and came to the conclusion that there was no room for budget cuts in the FBI and DEA and therefore they are operating at substantially the same levels at least through 1983 as they are now, so there will be no cutback in those resources, and it really was a situation of, if there had been any kind of substantial cuts, major items would have been ignored.

But I can't say, that that is so for Customs and I can't say for the Coast Guard. In the case of the Immigration and Naturalization Service, they have been given increases because of years of neglect.

Mr. STARK. May I ask you, just hypothetically, knowing what the assistance of the Coast Guard and the Customs agents has been, would you say that a reduced effort on their part would hinder the overall effort to reduce narcotics, illegal narcotics?

Mr. GIULIANI. A reduced effort by the Coast Guard would affect narcotics enforcement. Where the budget cuts are really coming out, muscle or fat, the answer to that I don't know. There are some Federal agencies where the answer to that would be yes and there would be some Federal agencies where the answer to that would be no.

Mr. STARK. Agreed. Thank you.

Thank you very much, Mr. Chairman.

Mr. ZEFERETTI. Would you not agree that one of the first actions that the council should be looking into is whether or not those various agencies are fitted with fat or are really down to the bone and should be given the kind of assistance that is necessary, at least an evaluation should be made at that level, on an immediate basis if the budget is going into place for 1983-84?

Mr. GIULIANI. I completely agree with that, Mr. Chairman.

Mr. ZEFERETTI. Mr. Oxley?

Mr. OXLEY. Thank you, Mr. Chairman.

Mr. Giuliani, I have one or two questions in regard to some recommendations you had made, related to amending the current law.

In the criminal forfeiture area, what exactly are you recommending?

Mr. GIULIANI. As the law presently exists, we can only forfeit property that is used in the commission of crimes under the RICO statute, the racketeering statute, which is a very cumbersome statute, and it doesn't apply to all narcotics cases. What this legislation would provide is the ability for the Federal Government to seek forfeiture of any property that is used or that is a fruit of narcotics trafficking. That would allow us to do it in the Racketeering Act, including real estate, including—let's assume that a warehouse was used to house cocaine—we could seize not only the cocaine but the warehouse and the real property on which that warehouse is located, if we could prove that it was being used by the narcotics dealer.

What you accomplish by that kind of result is, you take away not only the person who is financing, but you take away at least some of their resources. It has a very material effect on cutting down their ability to deal efficiently and it is something that would be of great value to us, practically.

It would also be of great value in having them fund our enforcement effort. I think there is some real justification for that, that those who are engaging in this terrible business bear the brunt of paying for it.

Mr. OXLEY. You would sell those resources?

Mr. GIULIANI. You would sell them, it goes into the general Treasury, but at budget time it is a very helpful comparison. Mr. Stark used that comparison before, for Customs, that a Customs agent is worth three or four times whatever his salary is, given the amount he collects in duty. It is very helpful, I think, to have the Drug Enforcement Administration bringing into the Government a lot more than they actually cost the Government.

Mr. OXLEY. Has there been any discussion about earmarking the proceeds from the sale of those resources specifically for drug enforcement?

Mr. GIULIANI. I cannot tell you what the status of that is. That's an issue that keeps coming up as to how to do it best, is it best to earmark it or is it best to have it go into the general Treasury. In most of these situations that I know of, the money goes into the general Treasury but the agency does a pretty good job of keeping track of it so that it can argue its case both within the administration and before the Congress.

Mr. OXLEY. What happens presently to resources that are seized now—airplanes, boats, these kinds of expensive equipment?

Mr. GIULIANI. I just flew to the Joint FBI-Drug Enforcement Conference in Williamsburg on a plane that had been seized that was engaged in bringing drugs from Florida to California. The DEA has a fleet of, I believe, 50 or 60 aircraft. The vast majority of those are seized and they use them for surveillance.

Mr. SCHEUER. What kind of aircraft?

Mr. GIULIANI. Six-seater.

Mr. SCHEUER. Twin-engine?

Mr. GIULIANI. Yes.

Mr. OXLEY. Under the current laws, you are saying those items cannot be auctioned or sold and the proceeds used by the Federal Treasury for law enforcement, is that correct?

Mr. GIULIANI. Right now, any dollars that are seized go right into the Federal Treasury, but if they seize something that is of use to law enforcement, for example, automobiles and planes, that can then be turned over to DEA or the FBI as appropriate. Many of the surveillance automobiles that DEA operates are seized from drug dealers, and they make better surveillance automobiles because they are not government-issue.

Mr. OXLEY. I guess what I am saying is that if there was an overabundance of those airplanes or automobiles, could those be converted to cash?

Mr. GIULIANI. That is also done.

Mr. OXLEY. I was also just wondering Mr. Giuliani, about bail reform which you have also discussed, I know Mr. Shaw to my right has a bill pending on the issue. Was that specifically what you were previously addressing?

Mr. GIULIANI. Yes, for Federal law enforcement, probably the area in which bail reform has the most impact is this area, the drug area, because it is a self-defeating kind of thing to spend all of the resources—when we are talking about how limited they are, they are too limited—and you end up wasting so much time, for sometimes 2 weeks searching for a fugitive. He finds the fugitive. The person is arrested, goes before a judge and the judge sets bail, and then the agent is back out, or some other agent is back out on the street searching for that same fugitive and that's just killing themselves doing that.

We can statistically demonstrate that large drug dealers are poor bail risks. We can demonstrate that to any judge who had an open mind about it, and also believes he has the power to hold someone for trial. We have a Speedy Trial Act in the Federal system so that you are not dealing with someone who will be held in jail for an extended period of time. He has to be brought to trial in 90 days and if necessary we could, for those people who are being incarcerated, speed up their trial so they were tried ahead of anyone else, so that there could be a determination of guilt beyond a reasonable doubt as quickly as possible. But there should be the ability for a judge to say, no, this person is too big a risk to let out on bail. Money is no assurance that he will return. However, he must be tried within 5 days. The legislation permits a person to appeal that to a court of appeals so that if the judge made a mistake about that the court of appeals would reverse it. We give judges more sensitive decisions than that to make, including how many years someone actually spends in jail.

Mr. OXLEY. That was going to my next question. You mentioned determinate sentencing. I was involved in that in Ohio. I know several States have passed determinate sentencing laws, including Illinois, and California, although they differ in certain aspects, if I am not mistaken. I am wondering what efforts, if any, have been made so far at the Federal level on determinate sentencing particularly as it relates to Criminal Code reform?

Mr. GIULIANI. The revision of the Federal Criminal Code has been before the Congress, passed by the Senate last year, and hopefully will be passed by the Senate and the House this year. It would provide for a total revision of Federal sentencing so that there would be determinate sentencing, if a person received 9 years

in jail, under present law, if at present a person receives 9 years, he spends a minimum of 3 to a maximum of 6 years in jail, the parole commission deciding whether he gets out in 4, 5, or 6 years. He doesn't spend 9 years in jail because he has to go out after 6. So it is really a 3-to-6 sentence.

Under the proposed Criminal Code, a person would spend 9 years in jail with 10 percent off for everyone for good behavior, so that you have some control on their behavior in jail, but it would essentially be a real 9 years.

Mr. OXLEY. Do you see any evidence or figures indicating success from the States that have enacted determinate sentencing or is it still too early to get that information?

Mr. GIULIANI. I can't tell you from studies what effect it would have. I can tell you that almost every person of whatever political party supports it. This bill is supported by Senator Thurmond and Senator Kennedy. It has very wide support from all various people in corrections and law enforcement. I don't know of a study that shows its impact on crime, but it certainly has the effect of increasing the sentences that people are given because a judge who might be motivated to appear to be tough will now have to actually be tough and not just appear to be tough.

Mr. OXLEY. It is interesting you should comment on that. I went to a conference—that was Dr. Fogel who was one of the originators of the model. His support for the program and for the change in determinate sentencing was not so much from the standpoint of longer sentences but more definitive and certain sentences. It is interesting from the testimony we received there at the conference in St. Louis, as well as what we had received in Columbus, was that even the present prison population, to a great extent, supports that concept. They call it flat time. It is an interesting concept, supported to a great extent by the prison population as well as many law enforcement people, and the political parties, from the right to the left.

Mr. GIULIANI. I don't advocate this as a reason to pass it, but I was a private defense lawyer for 4 years and represented some people who had to serve sentences and, in fact, psychologically, the principal thing they wanted to know is, how much time I am going to be in, so I can set my mind to do it. Is it going to be 1 year? Is it going to be 2 years? Is it going to be 3 years? Is it going to be 10? I will get myself ready for it.

The idea of not knowing is devastating on someone who has to serve time.

Mr. OXLEY. Thank you very much.

Mr. ZEFERETTI. I echo that because, as someone who comes from a correctional background, that is all people want to know, is how much time I am going to do, let me know definitely.

Just on bail reform, I think one of the tools a judge has to know and have as part of his examination is whether or not the individual is a threat to the community or to another individual, or whether or not this person has been involved in this kind of crime. Under the Federal statutes now, the judge only looks at whether or not the defendant is going to show up and how much money is going to be supplied. I think it is a very, very important piece of legislation.

Mr. Akaka?

Mr. AKAKA. Thank you very much, Mr. Chairman. I have two questions to ask.

Major advancement was made in the Defense Department Authorization Act of 1982. It contained an amendment, section 905, which allows the military to participate in interdiction, and of course this is a major step toward the integrated strategy that you are proposing. You have stated that the Secretary of Defense is formulating the regulations for this and also stated that it should be printed in the Federal Register soon. Can you tell me a little more specifically what this is about?

Mr. GIULIANI. Yes, it is really the attempt to put on paper some general principles as to what information should be turned over and how it should be turned over so that you can convert the law which is, I believe, a great advance and a very, very helpful tool for law enforcement if used properly in actual procedures, so that that reaches down.

Things were done in one way for a very, very long time. The mere fact that now the military can turn information over to law enforcement doesn't mean that it is going to happen. There is no penalty for its not happening. You have to convert that into procedures that the Defense Department, Justice Department, and Treasury Department agree on and that filters down to their agencies, so that they know what kind of information we want.

So far, and it has only been a few months that we have been operating under this law, it works very, very well where there is a specific mission. If we have investigation in certain areas and we tell the military we need information about this, we specifically tell them the task, we get that information, which we didn't get before. It does not work as well because it is more amorphous than just getting general intelligence and the purpose of the guidelines is to set forth factors that can be used so that they know what we want and can get it for us.

We also can evaluate whether we appropriately should have that kind of information. There is a real concern in not wanting to use the military for some inappropriate purpose, but only very clearly for law enforcement and narcotics enforcement purposes.

It is important to have that written down so it is clear to everyone exactly what we want from them and how we want it.

Mr. AKAKA. Will any branch of the military be allowed to conduct any investigations?

Mr. GIULIANI. It is not the purpose of this to have them actually carrying out law enforcement missions but rather, No. 1, to be turning over information on a free and open basis, and No. 2, to engage in really a process of education for us and for them on just what it is that we want and how to get it to us. Those are procedures that didn't exist before because of the way the Posse Comitatus Act was interpreted. It is going to take a little while and some trial and error to get that system working the right way so that it satisfies us and it satisfies them.

Mr. AKAKA. Another question on the reorganization plan of 1973, which prohibited Customs from any investigations, drug investigations. I understand that in Florida they were permitted to do drug investigations. My question to you, is this going to be continued,

will it be done generally throughout the country, or will it be limited only to Florida?

Mr. GIULIANI. I am not sure I know the actual answer to that. It was our view in the Department of Justice that the Customs Service, although it wanted to be involved more extensively in narcotics enforcement and to follow through on many of the seizures that they made, was not being, was not as involved as it should be and as it wanted to be. Therefore, this agreement that was reached on how the task force would operate in south Florida is very helpful to us as a model of the kind of cooperation hopefully that could exist between DEA and Customs. It is very important that DEA maintain its lead responsibility in narcotics enforcement so that we don't return to the era where no one knows who to give information to, much less who was in charge of anything.

You have some very terrible incidences of people running into each other investigating the same person, fighting with each other. At the same time, you have the Customs Service with very experienced people and tremendous resources, we should be able to do a better job of involving them in narcotics enforcement without necessarily returning to the era where they were fighting with each other.

The plan of the task force in south Florida could be a good model. It works right for doing it elsewhere, putting DEA in charge of a task force that maintains their lead responsibility. They have general and direct supervision of groups that include Customs agents who are working with—directly with, on a day-to-day basis—drug issues, so there are approximately 130 or 150 Customs agents with 40 or 50 DEA supervisors.

That works in south Florida. That might very well be a good way to accomplish the same thing on the west coast where you have the problem of San Diego and elsewhere. In New York, we have the problem in the airports. It might very well work out as a good model, but I think we have the benefit of seeing how it will work and maybe that will teach us some things about the way we should do justice as well.

Mr. ZEFERETTI. Mr. Scheuer?

Mr. SCHEUER. Thank you, Mr. Chairman.

Mr. Giuliani, you have been very patient sitting here with us for a couple of hours now. You are obviously a very knowledgeable person and you seem to be very forthcoming. We appreciate both of those. Yet, as I sit here—incidentally, Mr. Chairman, there are so many questions, I would like to ask unanimous consent for members to submit written questions after the hearing, if we could hold the record open for a while.

Mr. ZEFERETTI. Without objection.

Mr. SCHEUER. I have a certain sense of disquietude. First, organizationally, and second from the point of view of budget. I seem to be caught here in a miasma of Cabinet-level task forces and subgroups and coordinating committees, intra-agency committees, and some inter- and perhaps intra-agency coordinating.

Coordination is obviously necessary. We know that it is because we have been wrestling with the problems of State and Justice, DEA, FBI, Customs, INS, so we know there is a lot of coordination to be done. I don't get a very clear feeling though as to who is

going to be running the overall show. Where is the topline authority going to be for knocking heads together? It seems to me in trying to get some sense of order and direct levels of responsibility and trying to comprehend all of this, I feel as if I am trying to punch my way out of a bag of wet Kleenex. Where is the driving force going to be? We are organizing a comprehensive, multidisciplinary, across-the-board, interagency program on drug control. Where is the buck going to stop? Who is responsible for creating the program? Who is responsible for providing tough, firm, day-to-day oversight, surveillance? Where is the accountability going to be? Who do we look to? Who is the guy in charge?

Incidentally, could you provide us with an organization chart, sort of laying out where all this is? Is there a Cabinet council on drug enforcement? Did that phase into a Cabinet council on legal policy, and if so, where is drug enforcement? Is that now a sub-Cabinet responsibility?

I am trying to work my way out of this bag of wet Kleenex that I seem to be involved in. Who is in charge and where is the driving energy going to come from for coordinating this whole thing and giving orders and knocking heads together and seeing at the end of the pipeline that there are results flowing?

Mr. GIULIANI. The Attorney General is in charge of the Cabinet Council on Legal Policy. He is also, by law, the chief law enforcement officer of this country. The whole concept of the Cabinet Council on Legal Policy as it relates to narcotics enforcement and other issues is, No. 1, to bring these issues up to the level of the Attorney General, the Secretary of Treasury, the Secretary of Transportation, and where that cannot be resolved to bring it up to the President of the United States who ultimately—some of these issues can only be resolved by him.

If you have two Cabinet officials saying, one saying, I think you should do *x* and the other one saying, no, unless they can resolve it, there has to be a mechanism for their boss to resolve it, and that is what we think will be the real benefit of the Cabinet council. Issues that can be resolved on a working level as between the Administrator of DEA, the Commissioner of Customs, or the head of the Coast Guard, fine, those will be resolved at the working group subcouncil meetings that will take place on a regular basis, and hopefully 90 percent of the issues will get resolved that way. They usually do.

Those issues that are tougher and where there is disagreement would move up to the meetings chaired by the Attorney General with the Secretary of the Treasury, Secretary of Transportation, et cetera, and they hopefully can resolve another 5 percent of the issues that are raised.

And then there will be some, particularly I am sure that deal with budget and resources, that would have to be resolved by the President. And the way this President has organized his Government revolves to a large extent around issues being raised in the Cabinet council format where he can be briefed by his Cabinet secretaries, sitting in Cabinet councils, and making decisions.

Mr. SCHEUER. I take it that with all of that, the day-to-day follow-up, the point man in this whole thing is the Attorney General?

Mr. GIULIANI. That's right. It is his initial responsibility. He is the person that should be held accountable for whether this is all working correctly or not.

Mr. SCHEUER. And I take it that within the Attorney General's office, you have the tag of responsibility for the drug operations?

Mr. GIULIANI. That's right. Yes, I do.

Mr. SCHEUER. And so in effect this committee can look for you?

Mr. GIULIANI. That's right.

Mr. SCHEUER. You see, we're all a bunch of warm, cuddly puppies. You can work with us. We have the sense that we are going to be able to get some direct answers from you and we appreciate that very much.

Is tomorrow's meeting the organizational meeting of this Cabinet whatever you call it?

Mr. GIULIANI. Cabinet Council on Legal Policy, tomorrow will be its first official meeting. There have been organizational meetings and the organization has been agreed on and that is basically what I have described to you.

Mr. SCHEUER. I wonder whether you can give us, for the record, some kind of brief memo, just an informational memo, telling us what happens at that meeting that affects the drug program?

Mr. GIULIANI. Absolutely.

Mr. SCHEUER. I think we want to hear very much the specifics of organization, the specifics of funding. I am sure we will be submitting some written questions.

Mr. ZEFERETTI. If I can, Mr. Giuliani has been most cooperative over the period of time. We have had the ability to communicate and the ability to share information. I am sure whatever comes out of that meeting, I am sure he will be most helpful in letting us know.

I am going to move very quickly, since we have a series of votes that is going to take over an hour and I don't want to keep you here. What I am going to do is defer very quickly to Mr. Shaw and Mr. Guarini so that they can get something in prior to our leaving.

So, gentlemen, with that in mind?

Mr. SHAW. Thank you. I am very grateful for that because I do believe that the votes are going to go late into the day. I was late coming into this meeting and I am very pleased, to advise you that while you were here, I was on the floor of the House of Representatives and the continuing resolution was just passed that allocated extra funds for the south Florida task force.

Mr. Chairman, I read with great interest a portion of your opening statements expressing concern as to the south Florida initiative and what effect it would have on the rest of the country. Interestingly enough, when we start talking about Miami, some of us get nervous about what is going to happen in Fort Lauderdale.

The Vice President has addressed that question. In fact, he has even taken a line much further north than Fort Lauderdale. While this is a south Florida task force, its effect is going to be felt all along the Atlantic coastline and well into the Gulf of Mexico and as far west as Texas.

Some of the new, innovative methods of fighting the drug smugglers is being initiated. Sophisticated military weapons are being

used. Various surveillance systems are being used and they have capabilities extending far beyond the State of Florida.

I think it is also interesting and important to point out and to note that when you start talking about doing something about the drug problem in Florida, you are talking about eliminating anywhere from 50 to 70 percent of the illegal drugs that are brought into this country. Because of its geographical location, Florida is the chief port of entry. I know, Mr. Chairman, that you are well aware of that fact having been to hearings in my own home State of Florida.

The administration, in my opinion, has again allowed the Sun to shine in Florida. We are delighted. We feel good. We can see that the morale among the law enforcement officials has increased. We see a spirit of cooperation that we have not known in recent years in Florida and at last we see the man on the street, the businessman, and the working man is believing the Federal Government cares about them and that we are controlling the problems of crime here in south Florida.

We are very serious, the Federal Government is very serious in its war on drugs. I would also like to add that this committee, in having hearings in south Florida, can claim part of the credit for having focused that attention.

Rather than ask any more questions, I would like to tell you, Mr. Giuliani, as a representative of the administration, I as a representative of south Florida am most grateful for the attention that you focused on our problem.

Mr. ZEFERETTI. Thank you. Mr. Guarini?

Mr. GUARINI. Thank you, Mr. Chairman.

There is not very much time to ask a question, but I am very concerned about knowing what our priorities are. Is it education, as the President wants, had said a year ago, or is it interdiction? I am concerned about the drug law enforcement that we have in our country as related to that of other countries because we are really dealing with a world problem.

We are very concerned about the military cooperation and also I am particularly concerned about—and I will submit questions about this, Mr. Giuliani—I am concerned about the pinpoint of responsibilities, which was touched upon by Mr. Scheuer. We have a special trade representative and it is his responsibility to spend his full time in connection with world trade.

Now, he is in direct contact with the President. He can get anything done he has to get done. And, of course, we do have fragmented trade responsibilities, and that's why we have a special trade representative, because we have the Customs Service, the Commerce Department, the Treasury Department, we have the State Department, we have everybody involved in it. We have a hard time coordinating. I really think that all the words of component and coordination and integrated systems sound great but I don't see yet one place where we can pinpoint responsibility and say, if you don't do a good job, the blood is on your hands, and we hold you fully and entirely responsible. Would we fire the Attorney General because we didn't end up with a great drug enforcement program? Probably not because he does a thousand other things. So he can only address maybe 1 or 2 percent of his working time to

this particular problem because his overall responsibilities are so vast and so great.

So I still think we are a long way from getting the kind of discipline and organization that we need to combat a system of drug problems in our country that is well-disciplined and well-coordinated.

I think that's all.

Mr. ZEFERETTI. I want to thank you for your patience and cooperation. We will continue to work with you, and if you would share whatever information you can with us, we would be most grateful.

The materials prepared by our staff will be made a part of the record of this hearing, including questions developed.

Thank you.

[The committee adjourned, subject to the call of the Chair, at 3:50 p.m.]

PREPARED STATEMENT OF RUDOLPH GIULIANI, ASSOCIATE ATTORNEY GENERAL

Mr. Chairman, members of the select committee, since its establishment, the House Select Committee on Narcotics Abuse and Control has taken an active role in focusing Congressional, Executive Branch and international attention on the many complex issues associated with viable drug control strategies. Although for some time there has been a general consensus as to the primary goals and objectives of the drug control program, the strategies to implement the Federal drug program were not carried out in a cohesive fashion. This Administration has made clear its commitment to drug abuse control and minimizing the crime associated with drug trafficking. Departments and agencies have programs in place because the drug problem must be addressed on several fronts. I appreciate this opportunity to discuss the Department of Justice's role in the Federal drug program.

However, before I discuss our Department's program in depth, I believe that it is appropriate to spend a moment highlighting the significant on-going drug control activity that extends beyond the Department of Justice's sphere. The drug demand reduction component of the overall national strategy has been given renewed attention by ACTION and the White House. The First Lady has traveled to several areas to meet with drug abuse program leaders and concerned family groups. ACTION has launched a nationwide drug abuse campaign and is coordinating a nationwide national conference, that began yesterday, to involve organizations and the family in drug abuse prevention, treatment and control.

The Cabinet Council on Legal Policy was created to address the problems associated with narcotics, immigration and other legal policy issues which will require inter-departmental and inter-agency action. The Attorney General chairs this Cabinet-level task force; and the Secretaries of State, Defense, Treasury, Transportation, Health and Human Services, Agriculture, Interior, and Commerce, and the Directors of the Office of Management and Budget, the Central Intelligence Agency, and the Environmental Protection Agency all participate in the Sub-Council or working group on drug supply reduction.

It is the Attorney General's responsibility to ensure that each of the Sub-Council members is aware of the extent and the ramifications of the drug problem, and how the commitment and resources of his Department or agency can best be utilized to focus on specific tasks to advance the national and international drug control effort. Over a dozen such critical issues, each with several specific action items that require interagency coordination and action, have been developed for presentation to the Cabinet Council.

I will be chairing the working group of assistant and under secretaries that will implement each of these tasks. There are several primary areas where the working group will focus its attention. For example, we need to integrate the military's communication networks and intercept capabilities into drug enforcement operations. Additionally, multi-agency efforts are required to dismantle the complex money-laundering schemes of the drug traffickers and to enable the government to seize and forfeit their ill-gotten profits and proceeds. We will also be enhancing our program to control drug cultivation at the source—both in foreign nations and in our own. There are many other issues that the working group will address. Mr. Chairman, I will be pleased to report back to this Committee on the status of our program.

I am very optimistic that the Government and the people of this country can look forward to a well-managed, integrated approach to stemming the drug problem.

An important component of the drug supply reduction strategy is control of the drugs at the source. I know you are all well-versed in this philosophy and are very aware of the intricacies involved in implementing crop eradication programs in drug source nations. The State Department has been working diligently toward this end, and the Vice President has just reported on several recent significant accomplishments in this area. Of particular note is the trip of the Assistant Secretary of State for International Narcotic Matters, Domenick DiCarlo, who returned ten days ago from Bolivia, where he obtained a commitment from President Torrelío to move forward with a coca eradication program. The U.S. Government will provide the funding for the Bolivian pilot program, which is expected to commence in the near future.

We recognize that other nations are hesitant to initiate drug eradication programs unless we are willing to undertake the same effort in the United States. Colombian President Turbay has often expressed his reluctance to implement a marihuana eradication campaign until the United States embarks on a marihuana eradication campaign of its own. Now that the United States is developing such a program, the Colombians are far more willing to mount an eradication project in their country. Our Ambassadors in Colombia and Peru and our Charge in the Bahamas all note that the enforcement actions being carried out in the United States are having a motivating effect in those nations. Further diplomatic dialogue regarding host country drug control efforts is ongoing.

The Department of Justice is also working closely with the State Department on another aspect of the international drug enforcement situation. Bilateral agreements to gather information and evidence abroad to render it admissible in the other nation's court of law can be of tremendous value. The United States/Switzerland Mutual Assistance Treaty has been in force since January 1977. It has been an effective tool. By way of example, Isaac Kattan-Kassin, a principal target of Operations Greenback and Bancoshares, was a premier drug financier and money-launderer, who "washed" perhaps as much as \$100 million. Kattan utilized financial institutions in the United States, Colombia and Switzerland. Post arrest warrants led to the identification of Swiss bank accounts; the Swiss helped identify the accounts and subsequently froze approximately \$6 million of Kattan's narco-dollars.

On December 2, 1981 the United States Senate ratified treaties on Extradition and Mutual Legal Assistance with the Republic of Colombia and the Kingdom of the Netherlands. They are now awaiting approval by the respective governments and we expect that they may be in force as early as the end of this year. Representatives from the Justice Department and the State Department are also actively negotiating similar treaties with their counterparts in the Federal Republic of Germany, in France and in Italy, all major drug transit countries.

Furthermore, we have also been successful in reaching agreements with other nations to permit vessels registered under their flags to be boarded and searched where the vessel is suspected of transporting drugs to the United States. In November 1981, the United States and the United Kingdom entered into such bilateral agreement that provides for such boarding actions in specific circumstances. Notably, the agreement applies to vessels registered in British Virgin Islands. The first action taken pursuant to this agreement, conducted in January 1982, involved the seizure of a Cayman Island ship with several tons of marihuana in the hold. We view this agreement as a very positive step in the effort to interdict drugs on the high seas.

Although there is no formal agreement in place, the Colombian Government has similarly allowed the United States Government to take enforcement actions directed against one of its flag vessels. Recently, the Colombian Government permitted the United States Coast Guard to fire upon and board a Colombian flag vessel that was taking evasive action in its attempt to traffic marihuana to the United States. The vessel was carrying twenty tons of this drug.

Another important advance in the improvement of our ability to interdict drugs on the high seas and at our borders is the December 1, 1981 enactment of Public Law 97-86, the Department of Defense Authorization Act of 1982. Section 905 amends the Posse Comitatus Act which restricted appropriate forms of military assistance to civilian law enforcement. As enacted, this new law requires the Secretary of Defense to promulgate regulations to establish when and how military resources may be requested and the criteria for approval of such requests and to resolve the issue of reimbursement for those services. Our interdepartmental plans cannot be fully implemented until the regulations have been approved. It is my un-

derstanding that those regulations have been drafted and are expected to be published in the Federal Register in the very near future.

In this interim period, however, we have been aggressively working with the Defense Department on the implementation of this authority to support the United States drug enforcement program. Although the Navy was never bound by the restrictions of the Posse Comitatus Act, their regulations had much the same force. The Drug Enforcement Administration, the U.S. Coast Guard and the Navy have been meeting and have reached accord on ways in which the Navy can best support drug law enforcement—without interfering with the Navy's principal mission and at no cost to the other agencies. As a result, Navy units will be alert to detect vessels in the Caribbean or off the Atlantic Coast which meet the profile of drug smuggling vessels or which are on lookout. This information will then be transmitted to the Coast Guard and the El Paso Intelligence Center (EPIC). The Air Force has agreed to provide air surveillance capability, again without cost to other agencies and insofar as assistance does not detract from its mission. They will explore ways in which its reconnaissance aircraft can collect and provide certain drug related intelligence to DEA and EPIC.

The Vice President has just announced how the military forces are supporting the South Florida Task Force. Navy E2C surveillance aircraft, which supported an earlier U.S. Customs operation, will continue to operate off the Florida coast, at accelerated levels. The Department of Defense also will provide U.S. Army Cobra helicopters to Customs in order to interdict aircraft involved in smuggling. Furthermore, the Secretary of the Navy has authorized the use of U.S. Navy warships to help the Coast Guard interdict ships smuggling drugs or carrying aliens. The ships will have Coast Guard teams on board to perform the actual duties of boarding these other vessels. No doubt, the commitment of these resources will bolster the overall drug enforcement effort.

Within the Department of Justice we have also taken significant steps to improve the Federal drug law enforcement program. In January, the Attorney General announced the Department of Justice's initiatives to coordinate the drug enforcement efforts of the FBI and DEA. The Attorney General has also established a Departmental committee to oversee the development of drug policy and to assure that all Departmental resources, including its prosecutorial and correctional efforts, are effectively engaged in the effort against drug trafficking. This committee, which we call the Forum for Cooperative Strategy, meets regularly to address the full range of issues that impact on drug enforcement. The heads of all the Department of Justice criminal justice components—enforcement, prosecution, corrections—participate in the Forum. This committee ensures that drug enforcement investigations are not treated in a vacuum, because investigative activity has an impact all throughout the criminal justice system.

The balance of the Attorney General's announcements focused on the realignment of responsibilities in Federal drug law enforcement. Most central to this reorganization are the following:

DEA will continue intact as a law enforcement agency headed by an Administrator. However, the Administrator of DEA should report to the Department of Justice through the Director of the FBI.

The FBI has been assigned jurisdiction over the violations of the Federal criminal drug laws, concurrent with the jurisdiction of DEA.

The Director of the FBI will assure that maximum available FBI resources are used effectively to supplement DEA's existing resources and expertise.

The Administrator of DEA, subject to the general supervision of the Director of the FBI, is responsible for developing strategies for joint DEA/FBI drug enforcement efforts and should assure that DEA is organized in the manner most conducive to effective drug enforcement.

This reorganization provides for an infusion of FBI resources and expertise to enhance, without displacing, DEA's existing capabilities. The FBI resources will supplement those of DEA; a larger pool of agents in a greater number of locations around the country will be available for drug enforcement. This flexibility with far greater numbers of agents could, for example, permit DEA to re-deploy personnel to high priority areas, such as Florida, and to assist with manpower intensive operations, such as executing Title III surveillance. Expanded use of Title III's against organized drug trafficking cartels will greatly enhance our ability to dismantle these organizations.

Furthermore, if the United States is to eliminate these large-scale criminal enterprises, we must destroy their financial bases. Asset removal is a high priority of this Administration. In the short time it has been conducting drug-related financial investigations, DEA has realized increasing successes in seizing the assets of drug traf-

fickers. Nevertheless, this area is one in which the FBI has developed considerable expertise.

Both DEA and the FBI are committed to making this realignment work. Many questions have been raised; some are easy to answer, others are not. Formal operating guidelines for both agencies are being developed. I believe that the guidelines will be specific enough to provide guidance, yet flexible enough to allow management of both agencies to develop practical, effective working relationships. Senior managers and Special Agents in Charge of both DEA and the FBI just attended a conference that afforded them the opportunity to get better acquainted and to resolve many of their concerns.

As with any transition, it is still far too early to assess the full impact of this reorganization. The FBI's experience in combatting organized crime will enhance DEA's overall effectiveness. We will be pleased to keep the Committee apprised of significant events in this regard.

Many reservations and concerns have been expressed that the reorganization will detract from DEA's high-profile support of state and local enforcement efforts. This is not the case. DEA will continue to support its State and Local Task Force Program. It will be operated under DEA policy and direction to stimulate and provide support in investigations and prosecutions of drug violators. The task forces complement the Federal effort in selected jurisdictions, increasing the effectiveness of state and local officers by training them in drug enforcement techniques and aiding them with intelligence exchange. The task forces are now active in 18 cities, where the identified drug problem can best be handled via this approach. DEA supports the program with funding and agent and clerical resources.

DEA provides both strategic and tactical intelligence support to state and local agencies around the nation. Written reports on general trends or specific problems, such as look-alike drugs, are provided on a routine basis. Additionally, the El Paso Intelligence Center continues to provide timely operational support to those 45 states that have signed agreements with EPIC.

Historically, DEA has conducted many training programs for state and local officers. We will be continuing the training program. Training officers from both DEA and the FBI have been meeting to develop the most efficient use of both outstanding training facilities, in Glynco and in Quantico. Similarly, both the DEA and FBI have highly sophisticated forensic laboratory facilities that are utilized to varying degrees by state and local agencies. We will continue to support that component of our program to the extent that we are able.

This Administration has instituted a new program to ensure that the needs of the local law enforcement community are met. Each United States Attorney has been directed by the Attorney General to establish a Law Enforcement Coordinating Committee (LECC). The purpose is to assess the crime problem of the district, establish crime fighting priorities, and decide how best to allocate resources (within Federal agencies and between Federal and state agencies) to attack these problems. Representatives of the Federal law enforcement agencies and appropriate state and local law enforcement officials are members of the LECC. The Committee is designed to reflect the needs of and be responsive to the criminal enforcement situation of the individual district.

Most of the Committee's efforts will be carried out in subcommittees. Each LECC is expected to establish a drug law enforcement subcommittee (unless certain exceptions prevail). The stated purpose of the drug subcommittee is to "improve cooperation in drug law enforcement activities between different levels of government. . . . to exchange information on illegal drug use and drug law enforcement activity in the district. . . . members may plan and execute joint or cooperative drug law enforcement operations."

Over 50 U.S. Attorneys have had their first meeting of the Law Enforcement Coordinating Committee; several more are scheduled for the near future. I believe that the LECC program will have a measurable positive impact on state and local drug law enforcement capabilities.

In conclusion, each of these initiatives addressed a different aspect of the overall drug control strategy. Our program to better coordinate the Federal Government's effort will ensure a more focused and more effective attack on the important problem of drug trafficking. No crime problem is more important than drug trafficking and abuse. No problem is more challenging; I am confident that we are up to the tasks at hand.

I would like to thank all Members of the House Select Committee for your continuing support of this important program.

LEO C. ZEPERETTI, N.Y.

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Honorable Rudolph W. Giuliani
 Associate Attorney General
 Room 4119
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 Constitution Avenue and 10th Street, NW
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Dear Mr. Giuliani:

On behalf of the entire Select Committee, I want to thank you for appearing before us on March 23 to testify and answer questions concerning Federal drug law enforcement coordination. The development of a consistent, cohesive narcotics enforcement strategy as part of an overall Federal drug policy is of great concern to our Committee, and we appreciate your willingness to keep the Committee informed of the Administration's efforts in this area.

Because we were not able to cover all the areas of interest to us in the time available, I am enclosing some additional questions. We would appreciate your responses in writing to these questions as soon as possible to complete the hearing record.

Again, thank you for your continued cooperation.

Sincerely,

Leo C. Zepheretti
 LEO C. ZEPHERETTI
 Chairman

LCZ:ggc

Enclosure

FOLLOW-UP QUESTIONS TO MARCH 23, 1982 HEARING ON

DRUG ENFORCEMENT POLICY COORDINATION

Drug Policy Coordination

1. Will you please clarify the structure and operations of the Cabinet Council on Legal Policy and the working group on drug supply reduction and provide the Committee with an organizational chart of these bodies? Specifically,

a. What agencies and individuals serve on the Cabinet Council on Legal Policy?

b. How often will the Council meet?

c. What agencies and individuals serve on the Sub-Council or working group on drug supply reduction?

d. How many times has the Sub-Council met, and how often will it meet (e.g., weekly, monthly)?

e. What other Sub-Councils will be organized under the Cabinet Council on Legal Policy? Will you either serve on or chair any of these other working groups?

2. Is the Cabinet Council on Legal Policy taking the place of the interagency, cabinet-level Task Force on Drug Enforcement first referred to by the President in his September 1981 crime address and subsequently detailed in a Department of Justice fact sheet of October 23, 1981, on the President's program to control crime?

3. Please provide the Committee with a summary of the first meeting of the Cabinet Council on Legal Policy which you indicated was to have been held on March 24, 1982. What issues were presented to the Council for decision concerning drug policy? What decisions did the Council reach? What actions are required as a result of those decisions? What is being done to implement those actions?

4a. What priorities have the Cabinet Council and/or the Narcotics Sub-Council established to improve the coordination and implementation of drug law enforcement and international narcotics control efforts?

b. Specifically, what steps are planned or have been taken to accomplish these priority objectives?

5. What is the relationship between the Cabinet Council on Legal Policy/Narcotics Sub-Council and the special task force on crime in Southern Florida headed by Vice President Bush? How are the activities of these two groups coordinated?

6. Is the Cabinet Council on Legal Policy preparing a drug supply reduction strategy that will either be included as part of the Federal Strategy the President is required to promulgate under sections 301 and 305 of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1161 and 1165) or issued as a separate document?

7. What role will the Cabinet Council on Legal Policy play in assuring that adequate resources are provided to implement an effective drug enforcement strategy?

8. What structure or structures are being created to develop and coordinate Administration policy with respect to drug demand reduction? What agencies and individuals are involved?

9. Who has been designated, pursuant to section 202 of the Drug Abuse Prevention, Treatment and Rehabilitation Act, to coordinate the formulation and execution of the Administration's overall drug program including drug abuse prevention functions and drug traffic prevention functions?

Coordination Within the Justice Department

1. When the Attorney General announced the reorganization of DEA and FBI he also announced the formation of a "high level Justice Department committee to oversee the development of drug policy."

a. Who are the members of this committee?

b. How often does it meet?

c. What specific action is the committee taking to effectively mobilize the Department's resources against drug traffickers and, in particular, their financial base?

Justice-Treasury Coordination

1a. With respect to the joint DEA-Customs investigations in South Florida, will you please provide the Committee with a copy of the interagency agreement governing the conduct of these joint operations?

b. How well have these joint investigations worked so far?

c. When will a decision be made as to whether Customs' authority to investigate drug cases should be expanded beyond South Florida?

2. What has been done to improve coordination with the Internal Revenue Service and to have IRS actively pursue tax investigations of suspected major drug traffickers?

3. What specific interagency efforts have been instituted between Treasury and Justice to dismantle complex money laundering by drug traffickers and to seize and forfeit their ill-gotten profits and proceeds?

Resources/South Florida

1. Although there is substantial agreement that drug trafficking is our most serious crime problem, the President's budget for fiscal year 1983 proposes no real increases in the resources allocated to drug law enforcement agencies. In fact, the budgets for certain agencies, such as Customs and the Coast Guard, are well below the level needed just to maintain current services.

How can we effectively combat drug trafficking if we only keep our enforcement agencies at current operational levels or lower?

2. While we recognize the need for an increased Federal law enforcement presence in South Florida, we are concerned about stripping resources from other threatened areas of the country.

a. In light of the fact that the Administration's budget for 1983 proposes no real growth in the budgets for drug law enforcement agencies, where are the resources for the South Florida initiatives being taken from?

b. By reallocating resources to South Florida, aren't you merely creating opportunities for traffickers to shift their operations to less protected areas of the country?

Military Support for Drug Law Enforcement

1. Section 905 of P.L. 97-86 authorizes the military to cooperate with drug law enforcement agencies. What efforts are underway within the Executive branch to assure that this law is fully implemented? Specifically, what steps are being taken:

a. to assess the intelligence, surveillance and other mission requirements of Federal civilian drug law enforcement agencies?

b. to determine the equipment and other assets available in Defense that could be used to meet those requirements?

c. to provide the financial resources needed for the civilian agencies to make effective use of available Defense assets?

d. to supplement civilian agency resources to interdict the increased number of targets that will be identified by the military?

2. What role did the Justice Department play in the drafting of the regulations to implement Section 905?

3. How do you anticipate that the issue of reimbursement will be resolved?

4. On page 9 of the statement you submitted to the Committee, you refer to military assistance for the South Florida task force through Navy E2C surveillance aircraft and Cobra helicopters to support Customs and use of U.S. Navy warships to support Coast Guard interdiction. How much will this cost and how is it being paid for?

International Agreements

1. At the Committee's hearing in South Florida this past October, many complaints were made about the use of off-shore banks in the Bahamas and the Cayman Islands for money laundering. Have we begun any discussions with those nations in terms of executing mutual legal assistance treaties?

Crop Eradication and Income Substitution

1. Where are the funds for the Bolivian eradication pilot program coming from? Does this program have an income replacement component? If not, why? Is there any AID participation? If not, why?

2. In the broader context of international narcotics control, what is being done to coordinate AID and INM resources to control the illicit cultivation of narcotics abroad through crop eradication and income substitution programs?

3. In your testimony you state that the United States is developing a domestic marihuana eradication program. Could you please elaborate on how eradication will be carried out? Will it involve the spraying of paraquat? When and where will it be implemented?



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 24, 1982

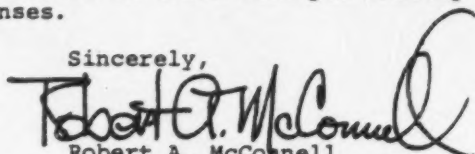
Honorable Leo C. Zeferetti
Chairman
Select Committee on Narcotics
Abuse and Control
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The Associate Attorney General has asked me to write you regarding your letter of April 5, 1982, submitting follow-up questions related to the March hearings of the Select Committee with respect to narcotics enforcement.

It is my understanding that you have received the responses to the questions submitted to the Federal Bureau of Investigation and the Drug Enforcement Administration but that the questions submitted to Mr. Giuliani are still pending. Of course, we regret this delay and are endeavoring to complete our responses and submit them to you this week. In the meantime, I am enclosing, by way of partial response, answers to a number of the questions you submitted on April 5. We will be in touch with you shortly with the remainder of our responses.

Sincerely,


Robert A. McConnell
Assistant Attorney General

Enclosures



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 26 1982

Honorable Leo C. Zeferetti
Chairman
Select Committee on Narcotics
Abuse and Control
House of Representatives
2436 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are the remaining follow-up questions to the Associate Attorney General regarding the March 23, 1982, hearing on drug enforcement policy coordination. The delay in answering these questions has been occasioned by a desire to be as responsive as possible to your inquiries, particularly with regard to Drug Policy Coordination.

If we can be of any further assistance, please feel free to contact us.

Sincerely,

(Signed) Robert A. McConnell

Robert A. McConnell
Assistant Attorney General

Enclosures

RECEIVED

AUG 26 1982

SELECT COMMITTEE ON
NARCOTICS ABUSE & CONTROL

FOLLOW-UP QUESTIONS TO MARCH 23, 1982 HEARING ON
DRUG ENFORCEMENT POLICY COORDINATION

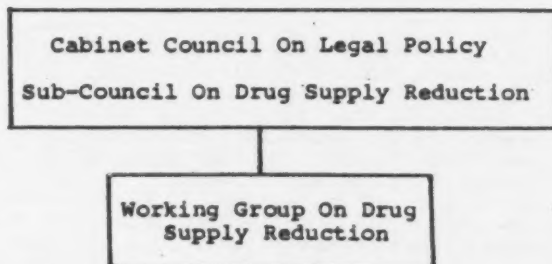
Drug Policy Coordination

1. Will you please clarify the structure and operations of the Cabinet Council on Legal Policy and the working group on drug supply reduction and provide the Committee with an organizational chart of these bodies?

On January 29, 1982, President Reagan announced the creation of a Cabinet Council on Legal Policy. This addition to the five existing Cabinet Councils is chaired by Attorney General William French Smith. It reviews matters pertaining to interdepartmental aspects of narcotics control, drug abuse prevention and treatment, civil rights, immigration, and other similar interagency policy matters. Initially, the Council focused upon narcotics enforcement and immigration and refugee policy. As part of the Cabinet Council there is a Sub-Council on Drug Supply Reduction chaired by the Attorney General.

A Working Group on Drug Supply Reduction was established under the Council to implement actions approved by the Council. This Working Group is chaired by Associate Attorney General Rudolph W. Giuliani.

ORGANIZATIONAL CHART



a. What agencies and individuals serve on the Cabinet Council on Legal Policy?

In addition to the Attorney General, also serving on the Cabinet Council are the Secretaries of State, Treasury, Interior, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation; the Director of the Office of Management and Budget and the Chairman of the Administrative Conference. Serving in an ex officio capacity are the Vice President, the Counsellor to the President, the Assistant to the President and Chief of Staff, the Assistant to the President for Policy Development and the Legal Counsel to the President.

Other departments will be invited to participate when appropriate. A cabinet member may attend meetings of the Cabinet Council on Legal Policy if the items under discussion are of interest. When the situation warrants, other agency heads will be invited to participate.

b. How often will the Council meet?

The Council meets as often as is necessary to address the important issues under its jurisdiction.

c. What agencies and individuals serve on the Sub-Council or working group on drug supply reduction?

The Attorney General is chairman of the Sub-Council on Drug Supply Reduction. Also serving on the Sub-Council are the Secretaries of Agriculture, Commerce, Defense, Health and Human Services, Interior, State, Transportation, Treasury; the Director of Central Intelligence and the Director of the Office of Management and Budget.

The Working Group on Drug Supply Reduction is chaired by Associate Attorney General Rudolph W. Giuliani with Special Assistant to the President Michael M. Uhlmann as the Executive Secretary. Other members of the Working Group include: A. James Barnes, General Counsel of the Department of Agriculture; Sherman Unger, Commerce Department General Counsel; James N. Juliana, Principal Deputy Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics; Dr. William E. Mayer, Health and Human Services Director of the Alcohol, Drug Abuse, and Mental Health Administration; William Satterfield, Interior Department Associate Solicitor; Dominick L. DiCarlo, Assistant Secretary of State, Bureau of International Narcotics Affairs; Raymond A. Karam, Transportation Department Deputy Assistant Secretary for Budget

and Programs; John M. Walker, Jr., Treasury Department Assistant Secretary for Enforcement and Operations; John H. Stein, Central Intelligence Deputy Director for Operations, and Stanley Sporkin, Central Intelligence General Counsel; Annelise Anderson, Office of Management and Budget Associate Director for Economics and Government; William H. Webster, Director, Federal Bureau of Investigation; Francis M. Mullen, Jr., Acting Administrator of the Drug Enforcement Administration; Jonathan C. Rose, Assistant Attorney General, Office of Legal Policy; Carlton E. Turner, Director, White House Drug Abuse Policy Office; Stephen A. Sharp, Federal Communications Commission General Counsel; and Michael A. Brown, Environmental Protection Agency Acting Enforcement Counsel and Deputy General Counsel.

d. How many times has the Sub-Council met, and how often will it meet (e.g., weekly, monthly)?

The Sub-Council on Drug Supply Reduction has met once on March 24, 1982. The Sub-Council will meet as necessary to consider the issue of drug supply reduction.

The Working Group on Drug Supply Reduction held its first meeting on April 29, 1982. The second meeting of the Working Group occurred on June 22, 1982. It is anticipated that the Working Group will meet again in the near future. The Working Group meets as necessary to address the problem of drug supply reduction.

e. What other Sub-Councils will be organized under the Cabinet Council on Legal Policy? Will you either serve on or chair any of these other working groups?

At this time no other specific Sub-Councils have been created. However, if it is necessary to create one, it is possible that one could be created. At this point, it would be impossible to determine whether Associate Attorney General Giuliani would serve on or chair any other possible working groups.

2. Is the Cabinet Council on Legal Policy taking the place of the interagency, cabinet-level Task Force on Drug Enforcement first referred to by the President in his September 1981 crime address and subsequently detailed in a Department of Justice fact sheet of October 23, 1981, on the President's program to control crime?

The Cabinet Council on Legal Policy does take the place of the Interagency Task Force on Drug Enforcement. The Sub-Council on Drug Supply Reduction is an enlargement of the interagency task force concept.

3. Please provide the Committee with a summary of the first meeting of the Cabinet Council on Legal Policy which you indicated was to have been held on March 24, 1982. What issues were presented to the Council for decision concerning drug policy? What decisions did the Council reach? What actions are required as a result of those decisions? What is being done to implement those actions?

At the first meeting of the Sub-Council on Drug Supply Reduction on March 24, 1981, the Attorney General briefed the President and the members of the Sub-Council on the magnitude of the drug problem facing the United States today. The Attorney General described the consequences of drug trafficking, the scope of the problem, and the general availability of drugs in our nation. In addition, he discussed the Administration's efforts and accomplishments in stemming the flow of drugs into the United States and noted the Administration's legislative proposals to remedy the problem.

Most importantly, it was impressed upon each member of the Sub-Council that real progress can be made only through a more concerted effort involving the broad expanse of the Federal establishment to stop drugs from reaching our shores and to aggressively enforce our laws if they do. A Working Group on Drug Supply Reduction was created in order to develop a more comprehensive drug enforcement program and ensure continued progress toward the Administration's commitment to reduce the flow of drugs.

The Working Group is reviewing the critical issues which require interagency cooperation and assistance and developing an effective drug enforcement strategy. The Working Group held its first meeting on April 29, 1982. At that meeting, the members were briefed on what occurred at the first meeting of the Cabinet Council on the issue of drug supply reduction. Work assignments were made and members were to report back at the next meeting.

The Working Group has created five task forces to address the critical issues involved in drug supply reduction. These task forces are: (I) Interagency Investigations, (II) Interdiction, (III) Federal/State/Local Cooperation, (IV) Diplomatic Initiatives, and (V) Legislative Initiatives. Each task force has a chairman and various members, and the membership in each task force was adjusted according to the concerns of each

department or agency involved.

Each task force was assigned to analyze their particular area and develop outlines of all relevant issues and what specific actions could be taken to address the issues. The task forces met on a number of occasions to develop and refine their outlines, which will form the basis for a proposed drug enforcement strategy.

The second meeting of the Working Group occurred on June 22, 1982. At that meeting, the chairmen of the five task forces reported on what had been done in each task force. In addition, they circulated their initial reports for comment by other Working Group members. These initial reports are being refined and developed into a final report. The Working Group will meet again in the near future.

The Working Group also provides a forum for the discussion of ongoing operational problems surrounding drug enforcement. It will meet on a regular basis to address such issues and work to improve our enforcement efforts.

4a. What priorities have the Cabinet Council and/or the Narcotics Sub-Council established to improve the coordination and implementation of drug law enforcement and international narcotics control efforts?

A significant priority of the Sub-Council is that a comprehensive and coordinated drug enforcement effort cannot be undertaken with just the resources of the Drug Enforcement Administration and the Federal Bureau of Investigation. In addition, it is particularly important that the information needs of law enforcement activities directed at drug trafficking be integrated into the routine operational and training activities of the military services. Each department and agency must commit resources as needed. This is essential to support the Administration's commitment to the people to make America a safer place for all its citizens.

b. Specifically, what steps are planned or have been taken to accomplish these priority objectives?

The Working Group on Drug Supply Reduction was created to review the critical issues which require interagency cooperation and assistance and develop an effective enforcement strategy in a manner that gives priority to the most important issues.

5. What is the relationship between the Cabinet Council on Legal Policy/Narcotics Sub-Council and the special task force on crime in Southern Florida headed by Vice President Bush? How are the activities of these two groups coordinated?

The Cabinet Council/Sub-Council on Drug Supply Reduction and the South Florida Task Force are two separate entities. As you are aware, the South Florida Task Force is an interagency law enforcement operation addressing the drug problem in the region. Many of the members of the Working Group on Drug Supply Reduction are knowledgeable about the South Florida effort and the contribution of their agencies. As a result, valuable information and lessons learned from the South Florida Task Force are provided to the Working Group in shaping a comprehensive, inter-agency enforcement strategy.

6. Is the Cabinet Council on Legal Policy preparing a drug supply reduction strategy that will either be included as part of the Federal Strategy the President is required to promulgate under sections 301 and 305 of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1161 and 1165) or issued as a separate document?

The Working Group on Drug Supply Reduction is preparing a drug supply reduction strategy for submission to the Sub-Council on Drug Supply Reduction. It will not be included as part of the Federal Strategy the President is required to promulgate under Sections 301 and 305 of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1161 and 1165).

7. What role will the Cabinet Council on Legal Policy play in assuring that adequate resources are provided to implement an effective drug enforcement strategy?

The provision of adequate resources to implement an effective drug enforcement strategy is an issue the Cabinet Council will address. The participation of departments and agencies heretofore not involved in drug supply reduction is a step in the right direction.

8. What structure or structures are being created to develop and coordinate Administration policy with respect to drug demand reduction? What agencies and individuals are involved?

As noted before in the responses to Questions 1 and 3, the Cabinet Council/Sub-Council on Drug Supply Reduction and the Working Group have been created to develop and coordinate Administration policy with regard to drug supply reduction.

9. Who has been designated, pursuant to section 202 of the Drug Abuse Prevention, Treatment and Rehabilitation Act, to coordinate the formulation and execution of the Administration's overall drug program including drug abuse prevention functions and drug traffic prevention functions?

On June 24, 1982, the President in an Executive Order designated Dr. Carlton E. Turner, the Director of the Drug Abuse Policy Office in the White House Office of Policy Development, to direct all the activities under Title II of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, in accord with Section 202 (21 U.S.C. 1112). In particular, he shall be primarily responsible for assisting the President in formulating policy for, and in coordinating and overseeing, international as well as domestic drug abuse functions by all Executive agencies.

Coordination Within the Justice Department

1. When the Attorney General announced the reorganization of DEA and FBI he also announced the formation of a "high level Justice Department committee to oversee the development of drug policy."

The Attorney General created what is known as the Forum for Cooperative Strategy, so that the Department's criminal justice components can meet to discuss matters of mutual concern. An issue of major importance is the development of an effective coordinated drug enforcement policy.

a. Who are the members of this committee?

The Associate Attorney General chairs the Forum. Also serving on the Forum are the Deputy Associate Attorney General, Associate Deputy Attorney General, Assistant Attorney General for Legislative Affairs, Assistant Attorney General for Criminal Division, Director of the Federal Bureau of Investigation, Acting Administrator of the Drug Enforcement Administration, Commissioner of the Immigration and Naturalization Service, Director of the Executive Office for United States Attorneys, Director of the Bureau of Prisons, Director of the Marshals Service, and Director of the Community Relations Service.

b. How often does it meet?

The Forum for Cooperative Strategy meets every two weeks.

c. What specific action is the committee taking to effectively mobilize the Department's resources against drug traffickers and, in particular, their financial base?

The effective mobilization of the Department's resources against drug traffickers has been enhanced through the consolidation of the Drug Enforcement Administration and the Federal Bureau of Investigation. For the first time in history, the vast resources of the FBI became available to supplement those of DEA. As a result, we have begun to draw on the FBI's expertise in conducting financial investigations, organized crime investigations and wiretaps. This realignment established the foundation for joint investigations of drug offenses and for coordinated and unified investigations of drug-related crime, including organized crime, money laundering and public corruption.

Further efforts to more effectively focus federal resources against drug trafficking are being made through the Law Enforcement Coordinating Committees.

Justice-Treasury Coordination

1a. With respect to the joint DEA-Customs investigations in South Florida, will you please provide the Committee with a copy of the interagency agreement governing the conduct of these joint operations?

A copy is attached

South Florida Task ForceOPERATION GUIDELINES

1. Prior to undertaking any pre-planned enforcement operation by any Task Force unit(s), the Task Force Command Center through the Operations Coordinator or his designee will contact the DEA Miami Division Intelligence Group to determine whether that activity duplicates or interferes with any on-going enforcement program.
2. Task Force field supervisors and managers will be responsible to consult on a regular basis with the local DEA Resident Agent-in-Charge (RAIC) of the office in whose area they are operating. Attached are the geographic areas under the direction of the Florida DEA resident offices.
3. The Domestic Guidelines of the Department of Justice will provide policy direction to all drug investigations relating to the general conduct of cases and specific operations, i.e., electronic surveillance, relations with U. S. Attorneys, informant management, and undercover operations. The Domestic Guidelines are made a part of this briefing material as Attachment 4.

POLICY STATEMENT

The mission of the Florida DEA/Customs Task Force will be the increase of narcotic interdictions and investigative follow-up through the enhancement and coordination with ongoing drug enforcement programs.

This cooperative effort will be accomplished through the leadership of the DEA Task Force Director, implementing the joint DEA/Customs operating guidelines, utilizing the established Task Force Chain of Command and in conformance with the Department of Justice Domestic Guidelines; DEA Regulations and U. S. Customs directives.

The Task Force will operate under the general policy control of the Miami Division Office of the Drug Enforcement Administration.

INVESTIGATIVE AUTHORITY

All Task Force agents and officers will have the authority to conduct drug intelligence collection, pre-interdiction, and interdiction investigations along with post-interdiction investigative pursuits within the State of Florida that have been coordinated through the Task Force Command Center with the DEA Miami Division. All investigations conducted by this Task Force will be under the general and specific supervision of the DEA Task Force Director.

TASK FORCE DIRECTOR (DEA)

The Task Force Director will have overall command control of the Task Force operation. He will exercise management direction in conformance with the established policy between DEA and U. S. Customs. He will ensure that all Department of Justice, DEA, U. S. Customs and Department of the Treasury guidelines are followed in carrying out the enforcement mission of the Task Force. The Director will have the authority to re-direct resources with due regard to the mandated investigative authority of DEA personnel and the statutory search and interdiction authority of the U. S. Customs personnel in drug enforcement operations.

The Director will be responsible for Task Force personnel conformance to the Domestic Guidelines in their entirety.

The Director will establish the operating guidelines and exercise direct control over the Command Center Operations and Operations Coordinator, including the Intelligence Unit.

The Director will be responsible for all Task Force press relations. No public statements will be made by any Task Force personnel without the approval of the Director. Press releases will generally be made through the U. S. Customs and DEA Headquarters Offices in Washington, D. C.

The Task Force Director will have the sole discretion to refer any investigation, particularly those of a long-range nature, to any DEA office or agency outside of the Task Force.

DELEGATION OF AUTHORITY

The Director will have the authority to delegate specific responsibilities to the Deputy Director or Assistant Directors according to the established Chain of Command and Task Force organization structure.

CHAIN OF COMMAND

The field direction of the Operation will be accomplished by the DEA Task Force Director located in Miami. The U. S. Customs Service Deputy Director will have two DEA Assistant Directors reporting to him, one for Miami, Key West, Homestead AFB-Air Operations, and Ft. Lauderdale, and the other for the Tampa and Jacksonville operations. There will be four Division Chiefs (3 DEA and 1 U. S. Customs) reporting to the Assistant Director-Miami and two U. S. Customs Division chiefs (1 Tampa and 1 Jacksonville) reporting to the Tampa-Jacksonville Assistant Director. Each Division Chief will have two or three field groups of DEA Special Agents, U. S. Customs agents and patrol officers reporting through their respective group supervisor, both DEA and U. S. Customs agents.

There will be: one group assigned to Key West; six groups in Miami; two groups at Homestead AFB-Air Operations; three groups in Ft. Lauderdale; two groups in Tampa; and two groups in Jacksonville.

U. S. Customs agents will lead twelve of the field groups and DEA will lead four of the remaining field groups.

COMMAND CENTER

The Command Center temporarily, pending completion of its permanent space is temporarily located in the Columbus Building, 5205 N. W. 84th Avenue, Miami, Florida 33166. Telephone numbers FTS: 820-4883/4/5/6, Commercial 305-591-4883/4/5/6.

The Command Center will be operational 7 days a week, 24 hours a day. The offices of the Florida Task Force Director, Deputy Director and their respective staffs will be housed in the Command Center. Also housed within the Command Center will be the Miami supervisors, their subordinates and a supportive staff. The Task Force's communications and intelligence networks will also be housed within this Center.

All Task Force communications will be routed through or coordinated with the Command Center in compliance with Task Force operations guidelines. This will be accomplished in all instances through the Task Force Center as follows:

All 16 field groups will report through their respective Division Chief to their Assistant Task Force Director all matters pertaining to operations and investigations taking place during normal duty hours. Division chiefs will report to their respective Task Force Assistant Director, other than normal working hours and weekends, through the Task Force Command Center, which will be operated on a 24-hour basis. Shift supervisors in the Command Center have been delegated the authority to make operational decisions in the absence of the Assistant Director. Field supervisors and/or agents are expected to keep the Command Center informed on a 24-hour basis so that their investigative activities can be coordinated.

Arrest and seizure statistics will be reported by each of the 16 field groups directly to the Operations Coordinator on a daily basis by telephone utilizing a format which will be furnished each group supervisor. Arrest Forms 202 for G-DEP Classes 1 and 2 will be prepared by field groups within five days of arrest and forwarded to their respective Assistant Directors after approval by division chiefs. Final G-DEP approval for Class 1 and 2 cases has been delegated to the Assistant Task Force Directors. Class 3 and 4 arrest 202's will also be forwarded within five working days, after group supervisor approval, directly to the Operations Coordinator. It should be noted that credit for all Task Force arrests cannot be accomplished until the 202's have been received by the Operations Coordinator.

STATISTICS

Only arrests and seizures reported according to DEA Guidelines will be reported as Task Force statistics in those reporting areas.

All investigative leads will be tabulated at the Command Center for inclusion into the Task Force statistics. These leads must be properly documented on DEA report forms.

REPORTING

1. All investigations undertaken by the Task Force will be reported on DEA Forms 6 and 6a pursuant to the attached reporting requirements (See Attachment ____). This will include general intelligence information and case reporting leading to prosecution.
2. All reports upon completion by the Task Force member (agent or patrol officer) will be reviewed for: content; thoroughness; conformance to reporting requirements; and approved by the appropriate first line supervisor.
3. After a case or general file investigation number has been affixed to the report, it will be forwarded through the chain of command to the Task Force Command Post, Miami for distribution to outside offices or agencies; and review and analysis by the Command Center Intelligence Unit.
4. A copy of each report will be retained by the originating group and the remaining copies will be sent to the Command Center for processing.
5. All investigations, whether pre-interdiction on-going operational, intelligence or post arrest/seizure follow-up will be coordinated through the Task Force Command Center-Operations Coordinator to insure that there is no conflict with on-going investigative efforts by DEA, U. S. Customs or other Federal and state drug enforcement agencies. This will guarantee the safety of all agents and officers, as well as avoiding duplication of enforcement effort or the possible compromise of an established long-range field operation.

6. All reports requesting investigative follow-up outside Florida will be forwarded to the nearest DEA field office for the appropriate action requested. In the case of collateral investigative interests, i.e., U. S. Customs, FBI, etc., all reports forwarded to DEA field offices will have attached instructions as to what agency should be provided a copy of said report and what follow-up investigative pursuit is to be undertaken.

7. No unilateral investigative follow-up leads will be sent to offices outside of the Task Force without the approval of the Task Force Command Center.

8. All teletype requests for information lookouts, etc., will be cleared through the Task Force Command Center prior to transmission through DEA or U. S. Customs channels. The Task Force Command Center via DEA-Miami Divisional Office will be shown as an info copy recipient of all teletype communications sent by either DEA or U. S. Customs channels after telephonic clearance through the Command Center.

9. A copy of each report, either intelligence or case related, will be forwarded by the Command Center to U. S. Customs Headquarters, Washington, D. C., ATTN: _____. Likewise, a copy of each report will also be sent to DEA Headquarters, Attn: ENSC-Operation Florida.

10. A copy of each report, either intelligence or case related, will be forwarded by the Command Center to the DEA Miami Division Office-District Intelligence Group to assist in the operations coordination process.

1b. How well have these joint investigations worked so far?

These joint investigations have worked quite well so far.

1c. When will a decision be made as to whether Customs' authority to investigate drug cases should be expanded beyond South Florida?

U. S. Customs is responsible for the interdiction of contraband entering the United States. This responsibility requires different skills from those needed to conduct indepth investigations of drug cases. Specific operating guidelines have been established for the South Florida Task Force, which is an intense, short-term effort. Customs agents are conducting drug investigations, under DEA's lead, for the duration of this operation only. This authority has been granted on an ad hoc basis. Further review of this issue must await the results of the South Florida Task Force.

2. What has been done to improve coordination with the Internal Revenue Service and to have IRS actively pursue tax investigations of suspected major drug traffickers?

The Drug Working Group of the Cabinet Council on Legal Policy tasks the IRS to enhance their efforts to support multi-agency endeavors to seize and forfeit drug traffickers' profits and proceeds and to proceed with tax actions against them. IRS's willingness to cooperate has improved significantly in the last several years, although there is room for progress. IRS is still impeded by the limitations of the Tax Reform Act of 1976, which must be amended.

3. What specific interagency efforts have been instituted between Treasury and Justice to dismantle complex money laundering by drug traffickers and to seize and forfeit their ill-gotten profits and proceeds?

DEA and IRS have several major joint ventures to investigate the tax evasions of significant violators. Two prime examples are Operation Citadel in Detroit, where 22 defendants were arrested and charged with Drug/Tax and U.S. Customs violations, and Operation Money on the west coast. The latter is a currently active investigation and a joint venture between DEA/U.S. Customs/IRS. It is investigating financial violations of concern to all three agencies.

Resources/South Florida

1. Although there is substantial agreement that drug trafficking is our most serious crime problem, the President's budget for fiscal year 1983 proposes no real increases in the resources allocated to drug law enforcement agencies. In fact, the budgets for certain agencies, such as Customs and the Coast Guard, are well below the level needed just to maintain current services.

How can we effectively combat drug trafficking if we only keep our enforcement agencies at current operational levels or lower?

We intend to use our resources as effectively and as efficiently as possible. It is true that we have 10 percent less than we had in 1976, but that is not the doing of this Administration. The reorganization of DEA and the FBI will permit us to do more in due course and to do it more effectively than we have done it in the past with the same resources.

2. While we recognize the need for an increased Federal law enforcement presence in South Florida, we are concerned about stripping resources from other threatened areas of the country.

a. In light of the fact that the Administration's budget for 1983 proposes no real growth in the budgets for drug law enforcement agencies, where are the resources for the South Florida initiatives being taken from?

b. By reallocating resources to South Florida, aren't you merely creating opportunities for traffickers to shift their operations to less protected areas of the country?

DEA's streamlined internal reorganization will release needed manpower for field operations. Working with the FBI will also allow us to more efficiently use our limited resources, e.g. DEA will be able to redeploy some manpower from representational-type offices to needed threatened areas. We are and will be monitoring the trafficking activity to ensure that we can adjust and shift our manpower to accommodate changing trafficking patterns. The agency has within it enough flexibility to accomplish that. The infusion of FBI resources will be most beneficial and will help compensate for shifting resources.

Military Support for Drug Law Enforcement

1. Section 905 of P.L. 97-86 authorizes the military to cooperate with drug law enforcement agencies. What efforts are underway within the Executive branch to assure that this law is fully implemented? Specifically, what steps are being taken:

- a. to assess the intelligence, surveillance and other mission requirements of Federal civilian drug law enforcement agencies?
- b. to determine the equipment and other assets available in Defense that could be used to meet those requirements?
- c. to provide the financial resources needed for the civilian agencies to make effective use of available Defense assets?
- d. To supplement civilian agency resources to interdict the increased number of targets that will be identified by the military?

The Cabinet Council on Legal Policy, Drug Enforcement Working Group is working on implementation of policy and development of resource assessments.

DEA has been meeting with Department of Defense officials on a regular basis to develop programs where the military can assist drug law enforcement. This is an ongoing endeavor.

Actual operations are based upon the implementing regulations published by the Defense Department (copy attached).



March 22, 1982
NUMBER 5525.5

Department of Defense Directive

(MRA&L)

SUBJECT: DoD Cooperation with Civilian Law Enforcement Officials

References: (a) through (hh), see enclosure 1.

A. PURPOSE

This Directive establishes uniform DoD policies and procedures to be followed with respect to support provided to federal, state, and local civilian law enforcement efforts.

B. APPLICABILITY AND SCOPE

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term, "Military Service," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

C. DEFINITIONS

1. Civilian agency. A government agency (other than the Department of Defense) in the following jurisdictions:

- a. The United States.
- b. A State (or political subdivision thereof).
- c. A territory or possession of the United States.

2. Civilian law enforcement official. An officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of the agency.

3. DoD intelligence component. An organization listed in subsection C.4. of DoD Directive 5240.1 (reference (a)).

D. POLICY

It is the policy of the Department of Defense to cooperate with civilian law enforcement officials to

the maximum extent practicable. Under enclosures 2 through 5 to this Directive, the implementation of this policy is consistent with the needs of national security and military preparedness, the historic tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) shall:

- a. Coordinate with civilian agencies on long-range policies to further DoD cooperation with civilian law enforcement officials.
- b. Provide information to civilian agencies to facilitate their access to DoD resources, including surplus equipment.
- c. Coordinate with the Department of Justice, the U.S. Coast Guard, and the U.S. Customs Service on matters related to the interdiction of the flow of illegal drugs into the United States.
- d. Develop guidance and approve actions as specified in enclosures 2 through 5 to this Directive taking into account the requirements of DoD intelligence components and the interests of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)).
- e. Disseminate promptly interim guidance to permit the approving authorities designated in enclosures 2 through 5 to this Directive to grant requests for assistance before the issuance of implementing documents.
- f. Ensure that the responsibilities addressed in paragraphs a. through e. are conducted in a manner that is consistent with the needs of national security and military preparedness.

2. Heads of DoD Components shall:

- a. Disseminate promptly the text of 10 U.S.C. §§371-378 (reference (b)), along with the interim guidance issued by the ASD(MRA&L) under paragraph E.1.e., above, to ensure that field elements implement promptly congressional and departmental policy.
- b. Review training and operational programs to determine how assistance can be provided to civilian law enforcement officials, consistent with the policy in section D., above, with a view towards identification of programs in which reimbursement can be waived under enclosure 5 of this Directive.

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c. Issue implementing documents incorporating the guidelines and procedures set forth in this Directive to include the following:

(1) Implementation of procedures for prompt transfer of law enforcement information.

(2) Establishment of local contact points in subordinate commands for purposes of coordination with civilian law enforcement officials.

(3) Issuance of guidelines for evaluating requests for assistance in terms of impact on national security and military preparedness.

4. The Director, National Security Agency (NSA)/ Chief, Central Security Service (CSS) shall establish appropriate guidance for NSA/CSS.

5. The Joint Chiefs of Staff shall:

a. Assist the ASD(MRA&L) in development of guidance for use by DoD Components in evaluating the impact of requests for assistance on national security and military preparedness.

b. Advise the Secretary of Defense and the ASD(MRA&L) on the impact on national security and military preparedness of specific requests for assistance when such officials act as approving authorities.

c. Advise approving authorities of the impact on national security and military preparedness of specific requests involving personnel assigned to a Unified or Specified Command.

G. INFORMATION REQUIREMENTS

A quarterly report of all requests for assistance (approved, denied, or pending) shall be submitted by the heads of DoD Components to the ASD(MRA&L), the ASD(HA), and the General Counsel, DoD, showing action taken (approval, denial, or pending), and other appropriate information. The format of such report shall be prescribed by the ASD(MRA&L) and will be prepared in accordance with DoD Directive 5000.11 (reference (c)). This information requirement has been assigned Report Control Symbol DD-M(Q) 1595. Actions involving the use of classified means or techniques may be exempted from such report with the concurrence of the ASD(MRA&L).

H. RELEASE OF INFORMATION

1. Release of information to the public concerning law enforcement operations is the primary responsibility of the civilian agency that is performing the law enforcement function.

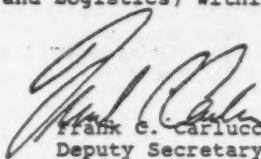
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DoD Components may release such information, however, when approved under the procedures established by the head of the DoD Component concerned.

2. When a DoD Component provides assistance under this Directive, it may condition the provision of such assistance upon control by the DoD Component of the release of information to the public concerning such assistance.

I. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 120 days.


Frank C. Carlucci
Deputy Secretary of Defense

Enclosures - 5

1. References
2. Use of Information Collected during Military Operations
3. Use of Military Equipment and Facilities
4. Restrictions on Participation of DoD Personnel in Civilian Law Enforcement Activities
5. Funding

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REFERENCES

- (a) DoD Directive 5240.1, "Activities of DoD Intelligence Components that Affect U.S. Persons," November 30, 1979; DoD Regulation 5240.1-R, "Procedures Concerning the Activities of DoD Intelligence Components that Affect United States Persons," November 30, 1979
- (b) Title 10, United States Code, §§371-378, 2576, 2667, 331-334, 337
- (c) DoD Directive 5000.11, "Data Element Codes Standardization Program," December 7, 1964
- (d) DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," January 7, 1980
- (e) DoD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding Their Personal Records," August 4, 1975
- (f) The Economy Act (31 U.S.C. §686)
- (g) The Intergovernmental Cooperation Act of 1968 (40 U.S.C. §§531-535; 42 U.S.C. §4201, 4211-4214, 4221-4225, 4231-4233, 4241-4244)
- (h) Federal Property and Administrative Services Act of 1949 (40 U.S.C. §§471-475, 476, 481, 483, 483c, 484-492, 512, 514, 521-524, 531-535, 541-544, 751-759; 41 U.S.C. §§5, 251-255, 257-260; 44 U.S.C., Chapters 21, 25, 27, 29, 31; 50 U.S.C. app. 1622, 1641)
- (i) DoD Directive 3025.12, "Employment of Military Resources in the Event of Civil Disturbances," August 19, 1971
- (j) DoD Directive 4160.23, "Sale of Surplus Military Equipment to State and Local Law Enforcement and Firefighting Agencies," January 27, 1981
- (k) DoD Directive 4160.24, "Disposal of Foreign Excess Personnel Property for Substantial Benefits or the Discharge of Claims," July 24, 1981
- (l) DoD Directive 4165.6, "Real Property Acquisition, Management and Disposal," December 22, 1976
- (m) DoD Directive 4165.20, "Utilization and Retention of Real Property," August 29, 1958
- (n) DoD Directive 5410.12, "Economic Adjustment Assistance to Defense Impacted Communities," April 21, 1973
- (o) DoD Instruction 7230.7, "User Charges," June 12, 1979
- (p) DoD Directive 7310.1, "Accounting and Reporting for Property Disposal and Proceeds from Sale of Disposable Personal Property and Lumber or Timber Products," July 10, 1970
- (q) DoD Instruction 7730.53, "Specialized or Technical Services Provided by the Department of Defense Components to State and Local Units of Government," July 15, 1970
- (r) DoD Directive 5030.46, "Assistance to the District of Columbia Government in Combating Crime," March 26, 1971

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- (s) Title 18, United States Code, §1385, "Posse Comitatus Act"
- (t) Uniform Code of Military Justice, Title 10, United States Code, Chapter 47
- (u) Title 16, United States Code, §§23, 78, 596, §1861(a)
- (v) Title 18, United States Code, §112, 1116, 351, 1751
- (w) Title 18, United States Code, §3056 note, "The Presidential Protection Assistance Act of 1976," Public Law 94-524, 90 Stat. 2475
- (x) Title 22, United States Code, §§408, 461-62
- (y) Title 25, United States Code, §180
- (z) Title 42, United States Code, §§97, 1989, 3756
- (aa) Title 43, United States Code, §1065
- (bb) Title 48, United States Code, §§1418, 1422, 1591
- (cc) Title 50, United States Code, §220
- (dd) The Controlled Substances Act (21 U.S.C. §§801 et seq.)
- (ee) The Controlled Substances Import and Export Act (21 U.S.C. §§951 et seq.)
- (ff) The Immigration and Nationality Act (8 U.S.C. §§1324-28)
- (gg) The Tariff Act of 1930 (19 U.S.C. §1401); Tariff Schedules of the United States (19 U.S.C. §1202)
- (hh) Title 21, United States Code, §873(b)

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USE OF INFORMATION COLLECTED DURING MILITARY OPERATIONS

A. ACQUISITION AND DISSEMINATION

DoD Components are encouraged to provide to federal, state, or local civilian law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any federal or state law within the jurisdiction of such officials. The heads of DoD Components shall prescribe procedures for the release of information upon reasonable belief that there has been such a violation.

1. The provision of assistance under this enclosure shall be in accordance with 10 U.S.C. §371 (reference (b)) and other applicable laws.

2. The acquisition and dissemination of information under this enclosure shall be in accordance with DoD Directive 5200.27 (reference (d)), DoD Directive 5240.1 and DoD 5240.1-R (reference (a)).

3. DoD Components shall establish procedures for "routine use" disclosures of such information in accordance with DoD Directive 5400.11 (reference (e)).

4. Under procedures established by the head of the DoD Component concerned, information concerning illegal drugs that is provided to civilian law enforcement officials under this provision may be provided to the El Paso Intelligence Center.

5. Under guidance established by the head of the DoD Component concerned, the planning and execution of compatible military training and operations may take into account the needs of civilian law enforcement officials for information when the collection of information is an incidental aspect of training performed for a military purpose. In this regard, the needs of civilian law enforcement officials may be considered in scheduling routine training missions. This does not permit the planning or creation of missions or training for the primary purpose of aiding civilian law enforcement officials, nor does it permit conducting training or mission for the purpose of routinely collecting information about U.S. citizens.

6. Nothing in this section modifies DoD policies or procedures concerning collection or dissemination of information for foreign intelligence or counterintelligence.

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7. The provision of assistance under this enclosure may not include or permit direct participation by a member of a Military Service in an interdiction of a vessel, aircraft, or a land vehicle, a search or seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law. See enclosure 4.

B. MILITARY PREPAREDNESS

Assistance may not be provided under this enclosure if provision of such assistance could affect adversely national security or military preparedness.

C. FUNDING

To the extent that assistance under this enclosure requires DoD Components to incur costs beyond those that are incurred in the normal course of military operations, the funding provisions of enclosure 5 are applicable.

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USE OF MILITARY EQUIPMENT AND FACILITIES

A. EQUIPMENT AND FACILITIES

DoD Components may make available equipment, base facilities, or research facilities to federal, state, or local civilian law enforcement officials for law enforcement purposes in accordance with this enclosure.

1. The ASD(MRA&L) shall issue guidance to ensure that the provision of assistance under this enclosure is in accordance with applicable provisions of 10 U.S.C. §§372, 2576, and 2667 (reference (b)); the Economy Act (reference (f)); the Intergovernmental Cooperation Act of 1968 (reference (g)); the Federal Property and Administrative Services Act of 1949 (reference (h)); and other applicable laws.

2. Such guidance also shall ensure application of the following Directives in applicable cases: DoD Directive 3025.12 (reference (i)); DoD Directive 4160.23 (reference (j)); DoD Directive 4160.24 (reference (k)); DoD Directive 4165.6 (reference (l)); DoD Directive 4165.20 (reference (m)); DoD Directive 5410.12 (reference (n)); DoD Directive 7230.7 (reference (o)); DoD Directive 7310.1 (reference (p)); DoD Directive 7730.53 (reference (q)) and such other guidance as may be issued by the ASD(MRA&L) and the Assistant Secretary of Defense (Comptroller) (ASD(C)).

3. The provision of such assistance by DoD Intelligence Components is subject to DoD Directive 5240.1 and DoD 5240.1-R (reference (a)).

B. LIMITATIONS ON USE OF PERSONNEL

1. A request for DoD personnel to operate or maintain or to assist in operating or maintaining equipment made available under section A., above, shall be considered under the guidance in subsection A.6. of enclosure 4.

2. Personnel in DoD intelligence components also are subject to the limitations in DoD Directive 5240.1 and DoD 5240.1-R (reference (a)).

C. MILITARY PREPAREDNESS

Assistance may not be provided under this enclosure if provision of such assistance could affect adversely national security or military preparedness. The implementing documents issued by the heads of DoD Components shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security and military preparedness.

D. APPROVAL AUTHORITY

Requests by civilian law enforcement officials for DoD assistance in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this section.

1. Approval authority for military assistance in the event of civil disturbance or related matters requiring immediate action is governed by DoD Directive 3025.12 (reference (i)).

2. Approval authority for assistance to the government of the District of Columbia is governed by DoD Directive 5030.46 (reference (r)).

3. The following governs approval for assistance to civilian law enforcement officials in other circumstances:

a. Requests for training, expert advice, or use of personnel to operate or maintain equipment shall be forwarded for consideration under section E. of enclosure 4.

b. Requests for DoD intelligence components to provide assistance shall be forwarded for consideration under DoD Directive 5240.1 and DoD 5240.1-R (reference (a)).

c. Requests for arms, ammunition, tank-automotive equipment, vessels, and aircraft will be forwarded for consideration by the ASD(MRA&L).

d. Requests for loan or other use of equipment or facilities for more than 60 days (including a permanent disposition) are subject to approval by the head of the DoD Component, unless approval by a higher official is required by statutes or DoD Directives applicable to the particular disposition.

e. Requests for use of other equipment or facilities may be approved by the Commanders-in-Chief (CINCs) of Unified and Specified Commands outside the Continental United States (CONUS); commanders of military installations or organizations

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who have been delegated such authority by the Secretary of the Military Department concerned, or the CINC; or heads of subordinate organizations within DoD Components who have been delegated such authority by the head of the DoD Component concerned.

f. All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD(MRA&L). Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

E. FUNDING

Funding requirements for assistance under this enclosure shall be established under the guidance in enclosure 5.

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RESTRICTIONS ON PARTICIPATION OF DoD
PERSONNEL IN CIVILIAN LAW ENFORCEMENT ACTIVITIES

A. STATUTORY REQUIREMENTS

1. The primary restriction on military participation in civilian law enforcement activities is the Posse Comitatus Act (reference (s)), which provides:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years or both.

2. Permissible direct assistance. The following activities are not restricted by the Posse Comitatus Act (subsection A.1., above), notwithstanding direct assistance to civilian law enforcement officials.

a. Actions that are taken for the primary purpose of furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities. This provision must be used with caution, and does not include actions taken for the primary purpose of aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of the Posse Comitatus Act. Actions under this provision may include the following, depending on the nature of the DoD interest and the specific action in question:

(1) Actions related to enforcement of the Uniform Code of Military Justice (reference (t)).

(2) Actions that are likely to result in administrative proceedings by the Department of Defense regardless of whether there is a related civil or criminal proceeding.

(3) Actions related to the commander's inherent authority to maintain law and order on a military installation or facility.

(4) Protection of classified military information or equipment.

(5) Protection of DoD personnel, DoD equipment, and official guests of the Department of Defense.

(6) Such other actions that are undertaken primarily for a military or foreign affairs purpose.

b. Actions that are taken under the inherent right of the U.S. Government, a sovereign national entity under the U.S. Constitution, to ensure the preservation of public order and the carrying out of governmental operations within its territorial limits, by force if necessary. This authority is reserved for unusual circumstances, and will be exercised only under DoD Directive 3025.12 (reference (i)), which permits use of this power in two circumstances:

(1) The emergency authority authorizes prompt and vigorous federal action, including use of military forces, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disaster, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation.

(2) Protection of federal property and functions authorizes federal action, including the use of military forces, to protect federal property and federal governmental functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

c. Actions taken pursuant to DoD responsibilities under 10 U.S.C. §§331-334 (reference (b)), relating to use of the military forces with respect to insurgency or domestic violence or conspiracy that hinders the execution of state or federal law in specified circumstances. Actions under this authority are governed by DoD Directive 3025.12 (reference (i)).

d. Actions taken under express statutory authority to assist officials in the execution of the laws, subject to applicable limitations therein. The laws that permit direct military participation in civilian law enforcement include the following:

(1) Protection of national parks and certain other federal lands. 16 U.S.C. §§23, 78, 596 (reference (u)).

(2) Enforcement of the Fishery Conservation and Management Act of 1976. 16 U.S.C. §1861(a) (reference (u)).

(3) Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons. 18 U.S.C. §§112, 1116 (reference (v)).

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(4) Assistance in the case of crimes against members of Congress. 18 U.S.C. §351 (reference (v)).

(5) Protection of the President, Vice President and other designated dignitaries. 18 U.S.C. §1751 (reference (v)); The Presidential Protection Assistance Act of 1976, (reference (w)).

(6) Actions taken in support of the neutrality laws. 22 U.S.C. §408, 461-62 (reference (x)).

(7) Removal of persons unlawfully present on Indian lands. 25 U.S.C. §180 (reference (y)).

(8) Execution of quarantine and certain health laws. 42 U.S.C. §97 (reference (z)).

(9) Execution of certain warrants relating to enforcement of specified civil rights laws. 42 U.S.C. §1989 (reference (z)).

(10) Loan of services, equipment, personnel, equipment, and facilities to the Law Enforcement Assistance Administration. 42 U.S.C. §3756 (reference (z)).

(11) Removal of unlawful enclosures from public lands. 43 U.S.C. §1065 (reference (aa)).

(12) Protection of the rights of a discoverer of a guano island. 48 U.S.C. §1418 (reference (bb)).

(13) Support of territorial governors in the event of civil disorders. 48 U.S.C. §§1422, 1591 (reference (bb)).

(14) Actions in support of certain customs laws. 50 U.S.C. §220 (reference (cc)).

3. Restrictions on direct assistance. Except as otherwise provided in this enclosure, the prohibition on use of military personnel "as a posse comitatus or otherwise to execute the laws" prohibits the following forms of direct assistance:

a. Interdiction of a vehicle, vessel, aircraft or other similar activity.

b. A search or seizure.

c. An arrest, stop and frisk, or similar activity.

d. Use of military personnel for surveillance or pursuit of individuals, or as informants, undercover agents, investigators, or interrogators.

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4. Training. DoD Components may provide training to federal, state, and local civilian law enforcement officials in the operation and maintenance of equipment made available under section A. of enclosure 3. This does not permit large scale or elaborate training, nor does it permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations except as otherwise authorized in this enclosure.

5. Expert Advice. DoD Components may provide expert advice to federal, state, or local law enforcement officials in accordance with 10 U.S.C. §§371-378 (reference (b)). This does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations except as otherwise authorized in this enclosure.

6. Use of DoD personnel to operate or maintain equipment. A request for DoD personnel to operate or maintain or to assist in operating or maintaining equipment made available under section A. of enclosure 3 shall be considered under the following guidance:

a. A request for assistance under this subsection may be made by the head of a civilian agency empowered to enforce the following laws:

(1) The Controlled Substances Act (reference (dd)) or the Controlled Substances Import and Export Act (reference (ee));

(2) Any of sections 274 through 278 of the Immigration and Nationality Act (reference (ff)); or

(3) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (reference (gg)) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States (reference (gg)) or any other territory or possession of the United States.

(4) Any other law which establishes authority for DoD personnel to provide direct assistance to civilian law enforcement officials.

b. Assistance under this section shall be limited to situations where the training of non-DoD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns.

c. The following types of assistance may be provided under this section:

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(1) DoD personnel may be assigned to maintain or assist in maintaining equipment with respect to any criminal violation of the laws specified in paragraph A.6.a., above.

(2) DoD personnel may be assigned to operate or assist in operating equipment to the extent the equipment is used for monitoring and communicating the movement of air and sea traffic with respect to any criminal violation of the laws specified in paragraph A.6.a., above.

(3) In an emergency circumstance, equipment operated by or with the assistance of DoD personnel may be used outside the land area of the United States (or any territory or possession of the United States) as a base of operations by federal law enforcement officials to facilitate the enforcement of a law listed in paragraph A.6.a., above, and to transport such law enforcement officials in connection with such operations, subject the following limitations:

(a) Equipment operated by or with the assistance of DoD personnel may not be used to interdict or interrupt the passage of vessels or aircraft except when DoD personnel are otherwise authorized to take such action with respect to a civilian law enforcement operation.

(b) There must be a joint determination by the Secretary of Defense and the Attorney General that an emergency circumstance exists under 10 U.S.C. §374(c)(2) (reference (b)). An emergency circumstance may be determined to exist for purposes of this subparagraph only when:

1 The size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and

2 Enforcement of a law listed in paragraph A.6.a. would be seriously impaired if the assistance described in this subsection were not provided.

(c) The emergency authority in this subparagraph may be used only with respect to large scale criminal activity at a particular point in time or over a fixed period. It does not permit use of this authority on a routine or extended basis.

(d) Nothing in this subparagraph restricts the authority of military personnel to take immediate action to save life or property or to protect a federal function as provided in paragraph A.1.b., above.

(3) When DoD personnel are otherwise assigned to provide assistance with respect to the laws specified in

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paragraph A.6.a., above, the participation of such personnel shall be consistent with the limitations in such laws, if any, and such restrictions as may be established by the Secretary of Defense, the ASD(MRA&L), or the head of the DoD Component concerned.

7. Other permissible assistance. The following forms of indirect assistance activities are not restricted by the Posse Comitatus Act (subsection A.1., above):

a. Transfer of information acquired in the normal course of military operations. See enclosure 2.

b. Such other actions, approved in accordance with procedures established by the head of the DoD Component concerned, that do not subject civilians to the exercise of military power that is regulatory, proscriptive, or compulsory in nature.

B. EXCEPTIONS BASED ON STATUS

The restrictions in section A. are not applicable to the following persons:

1. A member of a reserve component when not on active duty or inactive duty for training.

2. A member of the National Guard when not in the federal service.

3. A civilian employee of the Department of Defense. If the civilian employee is under the direct command and control of a military officer, assistance will not be provided unless it would be permitted under section A., above, or C., below.

4. A member of a Military Service when off-duty, and in a private capacity. A member is not acting in a private capacity when assistance to law enforcement officials is rendered under the direction, control, or suggestion of DoD authorities.

C. EXCEPTIONS BASED ON MILITARY SERVICE

DoD guidance on the Posse Comitatus Act, as set forth in sections A. and B., above, is applicable to the Navy and the Marine Corps as a matter of DoD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis.

1. Such exceptions shall include requests from the Attorney General for assistance under 21 U.S.C. §873(b) (reference (hh)).

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2. Prior approval from the Secretary of Defense shall be obtained for exceptions that are likely to involve participation by members of the Navy or Marine Corps in an interdiction of a vessel or aircraft, a search or seizure, an arrest, or other activity that is likely to subject civilians to the exercise of military power that is regulatory, proscriptive, or compulsory in nature. Such approval may be granted only when the head of the civilian agency concerned verifies that:

a. The size or scope of the suspected criminal activity poses a serious threat to the interests of the United States, and enforcement of a law within the jurisdiction of the civilian agency would be seriously impaired if the assistance were not provided because civilian assets are not available to perform the mission; or

b. Civilian law enforcement assets are not available to perform the mission and temporary assistance is required on an emergency basis to prevent loss of life or wanton destruction of property.

D. MILITARY PREPAREDNESS

Assistance may not be provided under this enclosure if provision of such assistance could affect adversely national security or military preparedness. The implementing documents issued by the heads of DoD Components shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security military preparedness.

E. APPROVAL AUTHORITY

Requests by civilian law enforcement officials for use of DoD personnel in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this section.

1. Use of DoD personnel in civil disturbances and related matters is governed by DoD Directive 3025.12 (reference (i)), with the approval authorities specified therein.

2. Approval authority for assistance to the government of the District of Columbia is governed by DoD Directive 5030.46 (reference (r)).

3. The following governs approval for assistance to civilian law enforcement officials in other circumstances:

a. The Secretary of Defense is the approval authority for requests that involve assignment of 50 or more DoD personnel or a period of assignment of more than 30 days.

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b. The ASD(MRA&L) is the approval authority for other requests for assignment of personnel.

c. The approval authority in paragraphs E.3.a. and E.3.b., above, may be delegated to the head of a DoD Component with respect to specified types of assistance by personnel for a period of six months or less in the following categories:

(1) Use of DoD personnel to provide training or expert advice in accordance with subsections A.4. and A.5., above.

(2) Use of DoD personnel for equipment maintenance in accordance with subparagraph A.6.c.(1), above.

(3) Use of DoD personnel for monitoring and communicating the movement of air and sea traffic in accordance with subparagraph A.6.c.(2), above.

(3) Use of Navy or Marine Corps personnel under section C., above, except when prior approval of the Secretary of Defense is required under subsection C.2., above.

d. Requests that involve DoD intelligence components are subject to the limitations in DoD Directive 5240.1 and DoD 5240.1-R (reference (a)), and are subject to approval by the Secretary of Defense.

e. The views of the Joint Chiefs of Staff shall be obtained on all requests that are considered by the Secretary of Defense or the ASD(MRA&L), or that otherwise involve personnel assigned to a Unified or Specified Command.

f. All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD(MRA&L). Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

F. FUNDING

Funding requirements for assistance under this enclosure shall be established by the ASD(MRA&L) under the guidance in enclosure 5.

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5525.5 (Encl 5)

FUNDING

A. ESTABLISHMENT OF GUIDANCE

Funding requirements and related reporting procedures shall be established by the ASD(MRA&L), after consultation with the ASD(C) subject to the guidance of this enclosure.

B. PROCEDURAL REQUIREMENTS

1. As a general matter, reimbursement is required when equipment or services are provided to agencies outside the Department of Defense. The primary source of law for reimbursement requirements is the Economy Act (reference (f)). Other statutes may be applicable to particular types of assistance. See section A. of enclosure 3.

2. Insofar as reimbursement is not required by law for a particular form of assistance, the authority to waive reimbursement is delegated to the ASD(MRA&L). See 10 U.S.C. §377 (reference (c)). A request for waiver may be granted in the following circumstances:

a. When assistance under this Directive is provided as an incidental aspect of an activity that is conducted for a military purpose.

b. When assistance under this Directive involves use of DoD personnel in an activity that provides DoD with training or operational benefits that are substantially equivalent to the benefit of DoD training or operations.

c. When reimbursement is not otherwise required by law and it is determined that waiver of reimbursement will not have an adverse impact on military preparedness.

3. The views of the Joint Chiefs of Staff as to the impact on military preparedness of a waiver of reimbursement will be considered by the ASD(MRA&L).

4. In evaluating requests for waiver of reimbursement, the ASD(MRA&L) will take into consideration the budgetary resources available to civilian law enforcement agencies and past practices with respect to similar types of assistance.

C. MILITARY PREPAREDNESS

Reimbursement shall not be waived if deletion of such funds from a DoD account could adversely affect the national security or military preparedness of the United States.

2. What role did the Justice Department play in the drafting of the regulations to implement Section 905?

The Department of Justice reviewed drafts of the regulations to implement Section 905 and provided comments on them to the Department of Defense.

3. How do you anticipate that the issue of reimbursement will be resolved?

The matter is being studied by the Department's Office of Legal Counsel at this time.

4. On page 9 of the statement you submitted to the Committee, you refer to military assistance for the South Florida task force through Navy E2C surveillance aircraft and Cobra helicopters to support Customs and use of U.S. Navy warships to support Coast Guard interdiction. How much will this cost and how is it being paid for?

U.S. Customs is paying for the cost of the Cobra helicopters, and the U.S. Navy is providing the E2C surveillance aircraft as their part in this effort.

International Agreements

1. At the Committee's hearing in South Florida this past October, many complaints were made about the use of off-shore banks in the Bahamas and the Cayman Islands for money laundering. Have we begun any discussions with those nations in terms of executing mutual legal assistance treaties?

The United States is actively pursuing with numerous nations the execution of mutual legal assistance treaties governing criminal matters. Of course, some of these discussions have been possible only upon United States assurances of confidentiality and cannot, therefore, be revealed. It has been publicized, however, that representatives of the United States and the Governments of the Bahamas and Jamaica have had preliminary discussions regarding mutual legal assistance. We have also concluded and ratified a mutual legal assistance treaty with the Netherlands Antilles which is expected to go into force this Fall.

Crop Eradication and Income Substitution

1. Where are the funds for the Bolivian eradication pilot program coming from? Does this program have an income replacement component? If not, why? Is there any AID participation? If not, why?

The pilot eradication program in Bolivia took place during April and May 1982, and resulted in the eradication of approximately 74 hectares of coca cultivation in an area known as the Yapacani. The Department of State's Bureau of International Narcotics Matters made available approximately \$50,000 of prior year appropriations to help the Bolivians procure equipment and supplies for this test. There was no income replacement component nor AID participation in the test since the goal was very limited in both magnitude and time, and since all the Yapacani coca cultivation is non-traditional and completely illegal under Bolivian law.

2. In the broader context of international narcotics control, what is being done to coordinate AID and INM resources to control the illicit cultivation of narcotics abroad through crop eradication and income substitution programs?

AID and INM work closely to insure that their activities in narcotics producing countries are complementary. A good working relationship both in Washington and within the U.S. missions in the countries concerned has led to a well-integrated approach in the Huallaga Valley in Peru, and in the planning for an INM crop control project in the Northwestern Frontier Province in Pakistan. Bolivia is a third country where AID and INM activities may mesh in the future. Planning for such an integrated approach is going on now. If the Bolivian government takes the necessary concrete actions in the anti-narcotics field, it is anticipated that rural development and anti-narcotics assistance programs targetted at the key Chapare growing area will be inaugurated more or less simultaneously.

3. In your testimony you state that the United States is developing a domestic marihuana eradication program. Could you please elaborate on how eradication will be carried out? Will it involve the spraying of paraquat? When and where will it be implemented?

DEA will initiate an expanded marihuana eradication and suppression program this year in cooperation with state and local law enforcement agencies in some 25 states. This program will be administered by DEA field offices with support and guidance from the marihuana section of the Office of Enforcement at Headquarters. As in the past, the extent of DEA's leadership and support will be pegged to the local situation and will encourage maximum state and local participation and initiative. The extent and dimensions of DEA's effort and support in each state will be dictated by the situation and requirements as determined largely by the field offices and state authorities.

Three basic levels of DEA interest are envisioned:

- Areas of significant sinsemilla cultivation. Requires positive DEA leadership and support for eradication, education and investigative activity.
- Areas of significant commercial marihuana cultivation (potential for sinsemilla or "high grade" cultivation is great). Requires positive DEA leadership to determine the extent of cultivation, quantity and quality of product and encouragement, education and advise to state and local authorities. Some DEA resources may be required.
- Areas where some commercial marihuana cultivation is reported or has been experienced; proliferation potential is unknown. DEA leadership required to determine current extent of cultivation and quality of product. Periodic monitoring of the situation is required to detect change. Encouragement and education for state and local authorities. Little or no DEA resources required.

DEA, in accordance with the restrictions of the National Environmental Policy Act, is not contemplating the use of herbicides to destroy marihuana fields. Once the requirements of this act are met, the option to use herbicides may be taken. State authorities are not so constrained, and are at liberty to use herbicides to destroy marihuana fields should they choose to do so.

The following states are scheduled for special DEA attention: Washington, Oregon, California, Arizona, Hawaii, New Mexico, Texas, Oklahoma, Kansas, Missouri, Illinois, Indiana, Virginia, Arkansas, Kentucky, North Carolina, South Carolina, Georgia, Louisiana, Alabama, Mississippi, Tennessee, Florida. This list of targetted states does not preclude the addition of others as the need arises.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 29, 1982.

Hon. RUDOLPH GIULIANI,
Associate Attorney General, Department of Justice,
Washington, D.C.

DEAR MR. GIULIANI: I regret that I had to go to the Floor of the House of Representatives during your testimony at our Narcotics Select Committee hearing on Federal Drug Law Enforcement Coordination (March 23, 1982). However, I have read your statement submitted to our Select Committee, and pursuant to the Chairman's suggestion that further questions be submitted to you for our Committee's record, I am writing to obtain a clarification of several points in your statement.

I have been critical of the Ford and Carter Administrations for their failure to formulate a comprehensive, coordinated, highly visible Federal drug strategy, as required by law. After 14 months in office, I am encouraged by certain initiatives undertaken by this Administration: that our First Lady is focusing attention on drug abuse prevention, that the Vice President is heading a Special Task Force on Crime in South Florida, and that you are chairing the Cabinet Council on Legal Policy's Working Group on Drug Supply Reduction. I note from your statement that the Attorney General has established a Forum for Cooperative Strategy, a departmental committee to oversee the development of drug policy, and that "each United States Attorney has been directed by the Attorney General to establish a Law Enforcement Coordinating Committee (LECC)."

All of the above initiatives undertaken by the Administration sound good, but I hope that this Administration is not reinventing the wheel by creating numerous, complex, bureaucratic layers that would stifle initiative and the capability to respond quickly to the drug crisis confronting our Nation. In this regard, I understand that the White House Senior Drug Policy Advisor reports to the Director of the Office of Policy Development, who reports to Assistant to the President for Policy Development, who reports to the Counsellor to the President.

As you know, just in the United States alone, drug trafficking constitutes an estimated 90 billion dollar activity. Given the enormity of this illicit activity, what is being done to formulate a comprehensive, coordinated, highly visible Federal drug strategy and who is heading this task? To date, as in the past three Administrations, our Nation does not have a Federal drug strategy and frankly I am at a loss to locate the individual who is coordinating the Working Group on Drug Supply Reduction, the Vice President's Special Task Force on Crime, the initiatives undertaken by our First Lady, and whatever Cabinet-level council, if any, that is working on the problems of drug demand reduction.

With respect to the Cabinet Council on Legal Policy, I would appreciate if you would identify the individuals who participate in the Cabinet Council and the members of the Working Group on Drug Supply Reduction.

With regard to the restructuring of the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI), the DEA Administrator is an FBI agent. Accordingly, within the DEA, have the Divisions of Planning and Inspection, Operations, and Operational Support and the Offices of Inspections, Planning and Evaluation, Diversion Control, and Intelligence been filled by FBI agents? Is there a proposal for any of these positions to be assigned to FBI agents? Does the FBI Director report to you or to the Attorney General?

As you know, there has been criticism that our law enforcement agencies are inadequately funded to wage "war" on drugs. In your opinion, do the DEA and the FBI have sufficient resources to effectively combat the drug traffickers?

I would hope that the DEA would still be the lead drug enforcement agency in this country and that the relationships established by DEA agents with their counterparts at the local level, both in this country and abroad, will not be disrupted by the new DEA/FBI merger.

I look forward to working with you in helping to formulate a comprehensive, coordinated, Federal drug strategy. If I can be of any assistance to you in your efforts to combat drug trafficking, I hope that you will not hesitate to contact me.

With best wishes.

Sincerely,

BENJAMIN A. GILMAN,
Member of Congress.



U.S. Department of Justice
Office of Legislative Affairs

RAM:CMC:JEP:CHC:EM
H-44

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 02 1982

Honorable Benjamin A. Gilman
House of Representatives
Washington, D. C. 20515

Dear Congressman Gilman:

This is with further reference to your March 29, 1982 letter to Associate Attorney General Giuliani regarding drug policy and enforcement. Please accept my sincere apologies for the inordinate delay in responding. Quite simply, your incoming letter was lost in our correspondence system and it was only because your staff inquired about the status of our response that we were able to locate your letter.

We deeply appreciate your strong commitment to improved drug enforcement and are grateful for your suggestions and assistance. The answers to the various questions you posed are set out below.

First, with respect to the formulation of a comprehensive federal drug strategy, this effort is well underway and is being coordinated by Dr. Carlton Turner, Director of the White House Drug Abuse Policy Office. The Drug Enforcement Administration and other federal agencies have had substantial input in the development of comprehensive national drug strategy and we hope the results of this effort will be released in the near future.

Second, the membership of the Sub-Council on Drug Supply Reduction is set out in Attachment A. The membership of the Cabinet Council Working Group on Drug Supply Reduction is set out in Attachment B.

Third, of the various Divisions and Offices of the Drug Enforcement Administration mentioned in your letter, only the head of the Planning and Inspections Division is an FBI Agent. There is no present intention to assign FBI personnel to fill the other positions you named.

Fourth, the Director of the FBI is authorized to report directly to the Attorney General. The Administrator of DEA reports through the Director to the Attorney General or to the Deputy Attorney General or Associate Attorney General, as appropriate. In this regard, I would direct your attention to 28 C.F.R.

cc: DEA;Giuliani

§ 0.102 (amended January 28, 1982), a copy of which is enclosed as Attachment C.

Finally, with respect to resources, while virtually every organization would like to have more resources, we recognize that there are limits to available resources and are confident that we have the resources necessary to do the job. In this regard, we believe the reorganization of the FBI and DEA will permit us to do more in due course and to do it more effectively.

Again, I regret the delay in responding to your letter and hope that the information set out above and the attachments hereto will be helpful. With respect to your offer to assist in the effort against drug trafficking, our most urgent need at this point is for legislative improvements in federal criminal justice laws. In this regard, our most pressing legislative needs are addressed in H.R. 6497, the Violent Crime and Drug Enforcement Improvements Act of 1982. A "Dear Colleague" letter will soon be circulated by Mr. McClory seeking co-sponsors for that bill and any assistance you can provide in securing support for this omnibus crime bill would be deeply appreciated by the law enforcement community.

Sincerely,

(Signed) Robert A. McConnell

Robert A. McConnell
Assistant Attorney General

(Attachment A)

CABINET COUNCIL ON LEGAL POLICY

Sub-Council on Drug Supply Reduction

CHAIRMAN: Attorney General

MEMBERS: Secretary of Agriculture
 Secretary of Commerce
 Secretary of Defense
 Secretary of Health & Human Services
 Secretary of the Interior
 Secretary of State
 Secretary of Transportation
 Secretary of the Treasury
 Director of Central Intelligence
 Director, Office of Management & Budget

(Attachment B)

CABINET COUNCIL ON LEGAL POLICY

Working Group on Drug Supply Reduction

Rudolph W. Giuliani, Chairman

Michael M. Uhlmann, Executive Secretary

Dominick L. Di Carlo
(Representing the Department of State)

James N. Juliana
(Representing the Department of Defense)

John M. Walker, Jr.
(Representing the Department of the Treasury)

A. James Barnes
(Representing the Department of Agriculture)

H. Stephen Halloway
(Representing the Department of Commerce)

William Satterfield
(Representing the Department of the Interior)

Ray Karam
(Representing the Department of Transportation)

John H. Stein
Stanley Sporkin
(Representing the Central Intelligence Agency)

Dr. William Mayer
(Representing the Department of Health & Human Services)

Frank V. Monastero
(Representing the Drug Enforcement Administration)

Oliver B. Revell
(Representing the Federal Bureau of Investigation)

Carlton E. Turner
(Representing the Office of Policy Development)

Stephen A. Sharp
(Representing the Federal Communications Commission)

Michael A. Brown
(Representing the Environmental Protection Agency)

Annelise Anderson
(Representing the Office of Management and Budget)

(Attachment C)

Federal Register / Vol. 47, No. 23 / Wednesday, February 3, 1982 / Rules and Regulations 4985

States. To insure complete coordination of the drug enforcement effort of the Department of Justice, the order places the Administrator under the general supervision of the Director.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Caruso, Special Assistant to the Associate Attorney General, Room 4116, U.S. Department of Justice, 10th and Pennsylvania Ave., NW., Washington, D.C. 20530. Tel. (202) 833-4078.

SUPPLEMENTARY INFORMATION: This order is not a rule within the meaning of either Executive Order 12291 section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601, et seq.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301, 21 U.S.C. 871, 28 U.S.C. 506, 310; Reorganization Plan No. 1 of 1968, section 3, and Reorganization Plan No. 2 of 1973, section 6, it is hereby ordered as follows:

1. Section 0.85(a) of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.85 General functions.

(a) Investigate violations of the laws, including the criminal drug laws, of the United States and collect evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise specifically assigned to another investigative agency. The Director's authority to investigate violations of and collect evidence in cases involving the criminal drug laws of the United States is concurrent with such authority of the Administrator of the Drug Enforcement Administration under § 0.100 of this part. In investigating violations of such laws and in collecting evidence in such cases, the Director may exercise so much of the authority vested in the Attorney General by sections 1 and 2 of Reorganization Plan No. 1 of 1968, section 1 of Reorganization Plan No. 2 of 1973 and the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, as he determines is necessary. He may also release FBI information on the same terms and for the same purposes that the Administrator of the Drug Enforcement Administration may disclose DEA information under § 0.103 of this part.

2. A new § 0.102, to read as follows, is added to Title 28, Code of Federal Regulations:

§ 0.102 Drug enforcement policy coordination.

The Administrator of the Drug Enforcement Administration shall perform his functions under the general supervision of the Director of the Federal Bureau of Investigation and shall report through him to the Attorney General, the Deputy Attorney General and the Associate Attorney General, as appropriate.

Dated: January 28, 1982.

William French Smith,
Attorney General.

(FR Doc. 82-3781 Filed 2-3-82; 8:45 am)
BILLING CODE 4410-01-01

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

(Order No. 908-82)

Enforcement of Criminal Drug Laws

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: In order to insure maximum effectiveness and efficiency in the enforcement of the criminal drug laws of the United States, the Attorney General has decided to make the resources of the Federal Bureau of Investigation available to complement and supplement those of the Drug Enforcement Administration in this effort. To this end, this order authorizes the Director of the Federal Bureau of Investigation, concurrently with the Administrator of the Drug Enforcement Administration, to investigate violations of the criminal drug laws of the United